

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 KAREN A. WALD,

5 PLAINTIFF,

6
7 -against- Case No.:
8 17-cv-03560

9 THE DEPARTMENT OF EDUCATION, OF THE CITY OF NEW YORK, and
10 THE CITY SCHOOL DISTRICT OF THE BOARD OF EDUCATION OF
11 THE CITY OF NEW YORK,

12 DEFENDANTS.
13 -----X

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15

16 DATE: February 1, 2018

17 TIME: 10:27 A.M.

18

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20 DEPOSITION of the Plaintiff, KAREN A. WALD,

21 taken by the Defendant, pursuant to an Order and to the

22 Federal Rules of Civil Procedure, held at the New York City

23 Law Department, 100 Church Street, 4th floor, New York, New

24 York 10007, before Danielle Kaastra, a Notary Public of the

25 State of New York.

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1 A P P E A R A N C E S:

2

3 STEWART LEE KARLIN LAW GROUP, P.C.
4 Attorneys for the Plaintiff
5 KAREN WALD
6 111 John Street, 22nd floor
7 New York, New York 10038
8 BY: NATALIA KAPITONOVA, ESQ.

7

8 ZACHARY W. CARTER, ESQ.
9 CORPORATION COUNSEL
10 NEW YORK CITY LAW DEPARTMENT
11 Attorneys for the Defendant
12 THE DEPARTMENT OF EDUCATION
13 OF THE CITY OF NEW YORK, and
14 THE CITY SCHOOL DISTRICT OF
15 THE BOARD OF EDUCATION OF
16 THE CITY OF NEW YORK
17 100 Church Street
18 New York, New York 10007
19 BY: JUSTIN REITER, ESQ.
20 File #: 2017-026672
21 Control #: 168674

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1 F E D E R A L S T I P U L A T I O N S

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4 IT IS HEREBY STIPULATED AND AGREED by and between
5 the counsel for the respective parties herein that the
6 sealing, filing and certification of the within deposition
7 be waived; that the original of the deposition may be
8 signed and sworn to by the witness before anyone authorized
9 to administer an oath, with the same effect as if signed
10 before a Judge of the Court; that an unsigned copy of the
11 deposition may be used with the same force and effect as if
12 signed by the witness, 30 days after service of the
13 original & 1 copy of same upon counsel for the witness.

14

15 IT IS FURTHER STIPULATED AND AGREED that all
16 objections except as to form, are reserved to the time of
17 trial.

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K. WALD

1 K A R E N A. W A L D, called as a witness, having been
2 first duly sworn by a Notary Public of the State of New
3 York, was examined and testified as follows:

4 EXAMINATION BY

5 MR. REITER:

6 Q. Please state your name for the record.

7 A. Karen Wald.

8 Q. What is your address?

9 A. 201 East 17th Street, New York, New York 10003.

10 MR. REITER: Please mark this exhibit.

11 (Whereupon, complaint was marked as
12 Defendant's Exhibit A for identification as of
13 this date by the Reporter.)

14 Q. Good morning, Ms. Wald. My name is Justin
15 Reiter. I represent corporation counsel with the New York
16 City Law department and I'm the attorney for the Department
17 of Education in the lawsuit which you have commenced. I'm
18 here to conduct your deposition regarding the lawsuit and
19 which is currently pending in the United States District
20 Court in the Eastern District of New York.

21 Now I'm going to be asking you a series of
22 questions relating to the allegations in your complaint and
23 in this lawsuit. Before I begin my questions I just want
24 to go over a few ground rules that we have before every
25 deposition that we take to make this process easier for

K. WALD

1 everyone. Now your testimony is being transcribed by the
2 court reporter. You must answer my questions verbally and
3 keep your voice up so that the court reporter can record
4 your responses. The court reporter cannot record a nod of
5 the the head or shaking of the head so each and every
6 response must be verbal. Do you understand.

7 A. Yes.

8 Q. Now you've been placed under oath by the court
9 reporter and this is the same oath that you would take if
10 you were testifying at a trial before a judge and a jury.
11 It requires that you answer my questions fully and as
12 accurately as you can and if you answer falsely that is
13 considered perjury. Do you understand?

14 A. Yes.

15 Q. Do you understand the difference between the
16 truth and a lie?

17 A. Yes.

18 Q. Please listen to my questions and wait until I
19 finish asking a question before responding. The court
20 reporter cannot record two people talking at once,
21 therefore, you need to let me finish my question before you
22 begin your answer. Do you understand this instruction?

23 A. Yes.

24 Q. If you do not understand a question, please let
25 me know and I will clarify the question or I can rephrase

K. WALD

1 it so you do understand. If you do not ask me to clarify
2 or rephrase the question, I will assume that you have
3 understood the question. Do you understand that
4 instruction?

5 A. Yes.

6 Q. A copy of the transcript of today's deposition
7 will be provided to you at some time after this deposition
8 for your review and signature for its accuracy. Do you
9 understand?

10 A. Yes.

11 Q. If you need to take a break at any point during
12 the deposition, please let me know; that's completely fine.
13 The only thing I would ask is that if we are in the middle
14 of a series of questions, that we finish the series before
15 we take that break. Do you understand?

16 A. Yes.

17 Q. Do you have any questions for me before we begin
18 this deposition?

19 A. No.

20 Q. Now I'm just going to have to ask you some
21 questions that we have to ask everyone prior to each and
22 every deposition. Okay?

23 A. Yes.

24 Q. Are you aware of any reason that might impair or
25 prevent you from truthfully answering my questions here

K. WALD

1 today?

2 A. No.

3 Q. Do you suffer from any condition, either mental
4 or physical that might impair your ability to understand my
5 questions?

6 A. No. Not that I know of.

7 Q. Have you ever been diagnosed with any psychiatric
8 or psychological condition which may impact your ability to
9 testify today?

10 A. No.

11 Q. Have you taken any medications, prescription or
12 otherwise in the last 24 hours?

13 A. Yes.

14 Q. What medication is that?

15 A. Acyclovir.

16 Q. Can you spell that for the record?

17 A. A-C-Y-C-L-O-V-I-R. Ibrutinib, I-B-R-I-T-I-N-U-D
18 (sic), Bactrim -- I think it's called ferrous sulfate;
19 they're iron pills, vitamin C, vitamin D.

20 Q. Any other medications?

21 A. No.

22 Q. What was the first medication?

23 A. Acyclovir.

24 Q. What's that medication?

25 A. Anti-viral.

K. WALD

1 Q. How often do you take the medication?

2 A. Twice a day.

3 Q. And what does that medication do for you?

4 A. It's a prophylactic. In other words, I have a --
5 it strengthens my resistance to infection, viral infection.

6 Q. Do you believe that this medication will inhibit
7 your ability to understand my questions, remember events
8 accurately and testify truthfully? Do you want me to
9 rephrase the question?

10 A. Yes.

11 Q. Do you believe that that medication will inhibit
12 your ability to answer my questions truthfully?

13 A. No.

14 Q. The second medication?

15 A. Bactrim.

16 Q. Can you explain what that medication is for?

17 A. An antibiotic.

18 Q. How often do you take Bactrim?

19 A. Every other day.

20 Q. Do you believe that that medication will inhibit
21 your ability to answer my questions truthfully?

22 A. No.

23 Q. The next medication?

24 A. Ibrutinib.

25 Q. What does Ibrutinib do for you?

K. WALD

1 A. It's chemotherapy.

2 Q. How long have you been taking this particular
3 medication for?

4 A. Two and a half years.

5 Q. And how often do you take this?

6 A. Every day.

7 Q. And this is a chemotherapy pill you said?

8 A. Yes.

9 Q. Do you believe that this medication will inhibit
10 your ability to understand my questions and testify
11 truthfully here today?

12 A. No.

13 Q. Were you supposed to take any medications,
14 prescription or otherwise, in the last 24 hours that you
15 have not taken?

16 A. No.

17 Q. Have you taken any controlled substances or
18 consumed any alcoholic beverages in the past 24 hours?

19 A. The ibrutinib is a controlled substance.

20 Q. Aside from ibrutinib?

21 A. No.

22 Q. Now did you review any document in preparation
23 for today's deposition?

24 A. Yes.

25 Q. What documents?

K. WALD

1 A. An e-mail or two that I had.

2 Q. Were those e-mails that you reviewed produced to
3 my office during the course of the litigation?

4 A. I don't know.

5 MR. REITER: If those e-mails were not
6 produced we're going to call for the production of the
7 e-mails that she is referring to.

8 A. I assume that I sent them to the attorney.

9 Q. Those e-mails you had reviewed you had sent to
10 your attorney previous to November?

11 A. Yes.

12 Q. When did you review those documents?

13 A. Yesterday.

14 Q. Was anyone there when you reviewed those
15 documents?

16 A. No.

17 Q. The documents you reviewed, did they refresh your
18 recollection as to the events you allege in this lawsuit?

19 A. Somewhat.

20 Q. What were those e-mails about?

21 A. They were to the union official who negotiated
22 with the OEO who was then trying negotiating with the New
23 York Department of Medical Division.

24 Q. Was that e-mail you sent to the OEO or was it
25 sent to the union?

K. WALD

1 A. No. I sent it to the union. The union sent it
2 to the OEO and the OEO sent it to -- had a discussion with
3 the medical division of the DOE.

4 MR. REITER: I don't believe we have a
5 copy.

6 A. It was just the follow-up. I haven't heard from
7 them.

8 Q. Okay.

9 A. There was no -- it was just follow-up.

10 Q. And what was the date of this e-mail?

11 A. There were I think in September and in October of
12 2015.

13 Q. And who was the union official that you sent this
14 e-mail to?

15 A. Tom Bennett.

16 Q. Did Tom Bennett respond to you?

17 A. Yes.

18 Q. What did he say to you?

19 A. I think he called me or I think he called.

20 Q. What did he say to you when he called you?

21 A. At one time he said he couldn't find the OEO
22 person, William Brewton. He said he was working on it.
23 Then, I think in September he told me to apply for a
24 medical hardship, which I did and then something got
25 confusing. I don't correctly remember what happened with

K. WALD

1 the medical hardship and then I asked him to follow up
2 because I hadn't gotten a decision in a long time.

3 Q. So this was in September of 2015?

4 A. September and early October.

5 Q. There were two e-mails that you reviewed in
6 preparation for today. Was there any other documents that
7 you reviewed?

8 A. There was a letter that was sent to you for the
9 case. The reasons that I filed the case.

10 Q. The complaint?

11 A. Yes.

12 Q. Okay. So the complaint and the e-mail that you
13 sent to Tom Bennett?

14 A. Yes.

15 MR. REITER: We'll call for the
16 production of those documents since we have not received
17 those.

18 MS. KAPITONOVA: You mean the e-mails
19 because the complaint you have.

20 MR. REITER: Just the e-mails we're going to
21 call for the production of.

22 Q. Are there any other e-mails that you sent to the
23 OEO office yourself in regard to the medical accomodation
24 request that you submitted in or around August 26, 2015?

25 A. As far as I recall I don't think I ever sent an

K. WALD

1 e-mail to the OEO.

2 Q. Did you ever send an e-mail to the Department of
3 Education, anyone at the Department of Education regarding
4 you medical hardship request or medical accomodation
5 request?

6 A. No. I sent it to my union rep.

7 Q. Who was your union rep?

8 A. Patty Crispino.

9 Q. When did you send the e-mail to Crispino?

10 A. Probably in the end of August early September.

11 MR. REITER: Were going to call for the
12 production of the e-mails to Patty Crispino.

13 A. I don't know I have an e-mail with Patty. I
14 talked to her every day. I don't know if I can find an
15 e-mail about that.

16 Q. So you're saying there are no e-mails to Patty
17 Crispino but you spoke to her on the phone in regard to the
18 medical accomodation request?

19 A. Yes.

20 MR. REITER: To the extent that the
21 e-mails exist, we would call for production. If they don't
22 exist, of course they can't be turned over.

23 MS. KAPITONOVA: Sure.

24 Q. Aside from reviewing documents, did you do
25 anything else to prepare for this deposition?

K. WALD

1 A. I don't know what you mean.

2 Q. Not talking about the conversation with your
3 attorney but did you speak to anyone at all in regard to
4 this lawsuit prior to appearing today?

5 A. Maybe Patty Crispino.

6 Q. When did you speak to Patty Crispino?

7 A. I speak to her often. I was a union chapter
8 leader. It might have come up.

9 Q. Have you spoken to Patty Crispino recently?

10 A. Yes.

11 Q. What did you say to Patty Crispino?

12 A. Usually she asks me how I am or sometimes she'll
13 ask me a question. I was the chapter leader and she'll ask
14 me a question if she has a question for the chapter leader.

15 Q. When was your most recent conversation with Patty
16 Crispino?

17 A. Yesterday or the day before.

18 Q. Did you speak to Patty Crispino about this
19 lawsuit yesterday or the day before?

20 A. No. Not in detail, no.

21 Q. Now did you discuss the fact that you were
22 appearing for this deposition with anyone other than your
23 attorney?

24 A. I may have mentioned it to Patty. I'm not quite
25 sure.

K. WALD

1 Q. Anyone else?

2 A. No.

3 Q. All right. Have you ever been known by any other
4 name other than Karen Wald?

5 A. No.

6 Q. What was your date of birth?

7 A. 10/31/1949.

8 Q. Where were you born?

9 A. In the Bronx.

10 Q. How long have you lived at your current home
11 address?

12 A. Over 35 years.

13 Q. Are you married?

14 A. No.

15 Q. Have you ever been married previously?

16 A. No.

17 Q. What is the highest level of education that you
18 have achieved?

19 A. Partial PhD.

20 Q. Where did you receive your partial PhD from?

21 A. Seton Hall.

22 Q. When did you receive that?

23 A. I didn't complete it.

24 Q. So you didn't complete it; you started the
25 partial PhD. So you didn't receive a degree from Seton

K. WALD

1 Hall?

2 A. No.

3 Q. What other degrees do you have?

4 A. I have a BA, an MA and an MBA.

5 Q. Where is your BA from?

6 A. University of Michigan.

7 Q. What did you receive your BA in?

8 A. American History.

9 Q. When did you graduate?

10 A. '71.

11 Q. The other degree that you have?

12 A. An MA.

13 Q. Okay.

14 A. From Columbia.

15 Q. What was that for?

16 A. Curriculum design.

17 Q. When did you receive that degree?

18 A. '73 or '74.

19 Q. And you also mentioned another?

20 A. An MBA.

21 Q. Where did receive your MBA?

22 A. Baruch.

23 Q. When?

24 A. '91 or '92.

25 Q. So just let me finish my question, please.

K. WALD

1 A. I'm sorry.

2 Q. When did you receive your degree from Baruch
3 College?

4 A. '91 or '92.

5 Q. After high school are there any other schools
6 that you attended?

7 A. For degrees.

8 Q. Yes?

9 A. No.

10 Q. Do you hold any profession licenses or
11 certificates?

12 A. Yes.

13 Q. What professional licenses or certificates do you
14 hold?

15 A. I have a teacher's license.

16 Q. And since when? How long have you had your
17 teacher's license for?

18 A. Maybe since '74.

19 Q. Any other?

20 A. Various licenses, various teacher's licenses.

21 Q. So let's break those down. What licenses do you
22 have?

23 A. I had, in the early days, I had a bilingual
24 French; bilingual Spanish, common branch, then I had BE
25 adult basic education.

K. WALD

1 Q. Do you still hold all of these licenses?

2 A. The bilingual licenses expired.

3 Q. Do you still hold the common branch license?

4 A. The common branch was changed to adult basic
5 education.

6 Q. When did your common branch licenses change to
7 adult basic education license?

8 A. I don't remember the date.

9 Q. How long have you had an adult basic education
10 license to the best of your knowledge?

11 A. Well it was when they added the adult basic
12 education is when an ESL license that got converted to
13 adult basic education license.

14 Q. Why was it converted from an ESL license to an
15 adult basic education license?

16 A. There was a problem with the State with teacher's
17 teaching ESL who didn't have master's in ESL. So the
18 program converted many of the teacher's who were teaching
19 ESL to BE teacher's.

20 Q. So you were converted to the basic ed license
21 because you did have a master's license?

22 A. In ESL.

23 Q. You didn't have a master's license in ESL, which
24 can you just state for the record what ESL stands for?

25 A. English as a second language.

K. WALD

1 Q. So that was the reason why you converted the line
2 of duty to basic ed?

3 A. That was the reason why it was converted.

4 Q. Now are you currently employed?

5 A. No.

6 Q. What was the last job that you held?

7 A. At OACE.

8 Q. And when was that?

9 A. I was officially employed until January 31st,
10 2016.

11 Q. So that was the last day that you were employed
12 by the board of education?

13 A. Yes.

14 Q. What was your job title at the time that you
15 retired on January 31, 2016?

16 A. Adult basic education Teacher and I was the
17 chapter leader. Well no, I wasn't the chapter leader at
18 the last month. I was an adult basic ed teacher.

19 Q. So at the time you retired on January 31, 2016,
20 you were an adult basic ed with the office of Adult
21 Continuing Education?

22 A. Correct.

23 Q. How long prior to your requirement had you been
24 employed as an adult basic education teacher to the best of
25 your knowledge?

K. WALD

1 A. Maybe from 2006. Can you repeat the question?
2 Adult basic ed you said?

3 Q. Yes.

4 A. So adult basic ed was maybe 2006. Around 2006,
5 2007.

6 Q. Between 2006 and 2007 until you retired on
7 January 31, 2016, you were working as an adult basic ed
8 teacher?

9 A. More or less. I don't remember the exact dates
10 but that sounds pretty close.

11 Q. Can you explain to me what the job
12 responsibilities were as an adult basic ed Teacher?

13 A. Depending on the level of the class, we taught
14 reading, writing, math, science, history, basically
15 building the skills that the students should have or should
16 learn to receive a high school diploma.

17 Q. What were the ages of the students that you
18 taught?

19 A. 21 upward.

20 Q. So anyone 21 and up could be a part of the class?

21 A. Correct.

22 Q. You testified that your responsibilities change
23 on the level of the class. Are you just stating based on
24 the quality of the students of the class or what did you
25 mean by that statement?

K. WALD

1 A. The responsibilities change based on the quality
2 of the education of the student, on the level of the
3 student. They are grouped in knowledge based skills but
4 even in a level two or a level three there is a wide
5 variety.

6 Q. What was your position with the Department of
7 Education prior to becoming an adult basic education
8 teacher?

9 A. I taught ESL.

10 Q. What grade level did you teach ESL?

11 A. The same thing.

12 Q. Adult Education?

13 A. Yes. From 2001 to 2006 or 2007 I taught ESL.
14 There was a one year hiatus where I went back to the day
15 school.

16 Q. What was the day school?

17 A. K-12.

18 Q. What year was that?

19 A. I'm pretty sure it was 2006, 2007 but I would
20 have to check for you.

21 Q. Other than that one year you were teaching
22 English as a second language for adults?

23 A. Right. And then I taught many years before that.

24 Q. Where did you teach many years before that?

25 A. I taught common branch bilingual Spanish.

K. WALD

1 Q. In day school?

2 A. In day school.

3 Q. What years were you teaching in day school?

4 A. I think I started in '72 or '73. I worked for
5 three years and then left for a long time. Then I don't
6 remember, maybe either '80 or early 90's I worked
7 part-time. It was broken.

8 Q. So you left the Department of Education for a
9 period of time in the 70's through the 80's; is that
10 correct?

11 A. Yes.

12 Q. What were you doing during that time period?

13 A. I went back to school. I worked in sales.

14 Q. So how many years in total have you been employed
15 by the New York City Department of Education?

16 A. 25 years.

17 Q. And have you always worked with the office of
18 Adult Continuing Education throughout your employment with
19 the New York City Department of Education?

20 A. No.

21 Q. Sometimes you were working in the day school when
22 you were not employed by the office of Adult Continuing
23 Education?

24 A. Correct.

25 Q. I'm going to show you what has been premarked as

K. WALD

1 Defendant's Exhibit A. This is a copy. Ms. Wald, do you
2 recognize this document? Take your time to look at it.

3 A. It looks familiar. I can't attest to the dates
4 but yes. The first page of the document. Let me look
5 through the whole thing.

6 Q. Yes. Just to make sure you recognize it.

7 A. Yes.

8 Q. Is this the complaint that was filed in this
9 lawsuit?

10 A. Yes.

11 Q. Now Ms. Wald, why are you bringing this lawsuit
12 against the Department of Education here?

13 A. Because I have a disability and I believe that I
14 was entitled to accomodation so I won't get sicker.

15 Q. Now in the complaint you're alleging that you are
16 bringing this action pursuant to the Americans with
17 Disabilities Act; is that correct?

18 A. Yes.

19 Q. What disability do you have?

20 A. I have leukemia.

21 Q. When were you first diagnosed with leukemia?

22 A. In 2013.

23 Q. When did you first inform the Department of
24 Education that you had been diagnosed with leukemia?

25 A. In August of 2015.

K. WALD

1 Q. So you informed the Department of Education that
2 you had leukemia when you submitted the medical
3 accomodation request form?

4 A. That's correct.

5 Q. Now how does your leukemia affect your everyday
6 life?

7 A. Well before I was taking the chemotherapy I was
8 getting sick. Well for a while it was worsening slowly and
9 then it got very bad in the year 2015. Winter, fall 2014,
10 2015.

11 Q. So fall 2014 is when the condition worsened; is
12 that correct?

13 A. Yes. It started in 2015.

14 Q. In the fall?

15 A. Yes. It started worsening.

16 Q. I'm sorry. I thought you said fall.

17 A. I did.

18 Q. Fall 2014. Did it start worsening when you
19 started chemotherapy or prior to that?

20 A. No. Prior to that.

21 Q. When did you start undergoing chemotherapy?

22 A. August 2015.

23 Q. Now the from the date you were diagnosed with
24 leukemia in 2013 until you retired in 2016, did you have to
25 take any time off from work due to your diagnosis?

K. WALD

1 A. Okay. There was an issue with time off. I was a
2 chapter leader. Yes, I did take time off.

3 Q. When did you take time off?

4 A. I can't remember the dates but there was a time.
5 I was rarely sick but in Winter of 2015, okay, I was very
6 sick.

7 Q. Did you take any time off from 2013 when you were
8 diagnosed with leukemia until December of 2015?

9 A. What do you mean time off?

10 Q. Did just you take any medical leave?

11 A. No.

12 Q. Okay. The first time that you took medical leave
13 in relation to your leukemia was in December of 2015?

14 A. I didn't take any medical leave.

15 Q. What did you take?

16 A. I took terminal leave.

17 Q. So you didn't take medical leave, you took
18 terminal leave?

19 A. Yes.

20 Q. Did you ever take any medical leave in regard to
21 the leukemia?

22 A. No.

23 Q. So the only leave that you took in regard to your
24 leukemia was the terminal leave you took in December of
25 2015?

K. WALD

1 A. Correct.

2 Q. Did leukemia ever prevent you from working with
3 the Department of Education?

4 A. What do you mean?

5 Q. Were you ever physically unable to work because
6 of your leukemia?

7 A. Yes.

8 Q. Okay. When were you physically unable to work?

9 A. I was susceptible to viruses, okay. I had
10 several respiratory infections in the fall and winter of
11 2015 and spring.

12 Q. And spring of?

13 A. 2015. Prior to taking the chemotherapy I was
14 getting several respiratory infections.

15 Q. So in the spring of 2015 and the fall of 2014?

16 A. '14.

17 Q. So you started having respiratory infections in
18 the fall of 2014 and it continued into the spring of 2015?

19 A. Yes.

20 Q. Did you take time off from work in regard to
21 these respiratory infections?

22 A. What do you mean time off?

23 Q. Did you miss work? Did you not appear to work
24 due to your infections?

25 A. Yes.

K. WALD

1 Q. When did you take time off from work due to your
2 respiratory infections?

3 A. I think at one time I took three days off. Which
4 is quite unusual and out of character for me.

5 Q. So the only time you took off in regard to your
6 respiratory infections was the three days off?

7 A. Right. I wasn't going to take any days off.

8 Q. And that was in spring 2015?

9 A. I took three days off. That might have been on
10 more than one occasion.

11 Q. So you're saying you took three days off on
12 multiple occasions?

13 A. I don't know multiple but it might have been more
14 than once.

15 Q. To the best of your knowledge how many days off
16 in total did you miss due to respiratory infections?

17 A. I don't know. Maybe nine or so. There was a
18 policy in our program, okay. I was chapter leader. That
19 if you were absent more than ten days you can get U rating.

20 Q. So there was a policy in the Adult Education
21 program?

22 A. Yes.

23 Q. The policy said that if you missed more than ten
24 days during the year that you could get an unsatisfactory
25 rating?

K. WALD

1 A. Correct. It was a big issue as the chapter
2 leader. And I was the chapter leader.

3 Q. Did you miss ten days?

4 A. I made sure that I didn't miss ten days.

5 Q. So what was your rating from the 2014 school
6 year?

7 A. It was satisfactory.

8 Q. So you didn't receive an unsatisfactory rating?

9 A. I wasn't absent more than ten days.

10 Q. Okay, now when you took time off during the 2014
11 school year, did you inform the board of education of why
12 you were taking time off, the reason why you were taking
13 time off?

14 A. You needed to have a letter. So I'm pretty sure
15 I submitted a letter.

16 Q. Who did you have a letter from?

17 A. From a doctor.

18 Q. Stating that you were physically unable to work?

19 A. Yes.

20 Q. Did the letter state that you were physically
21 unable to work?

22 A. Yes.

23 Q. Did the letter state why you were physically
24 unable to work?

25 A. I don't recall.

K. WALD

1 Q. Is your leukemia currently preventing you from
2 working?

3 A. What do you mean?

4 Q. Are you physically unable to work currently?

5 A. I guess it would depend on what is the work.

6 Q. What do you mean? What would it depend on?

7 A. On the conditions of the work and the rigor of
8 the work.

9 Q. Since you retired in January of 2016, have you
10 applied for any positions for employment?

11 A. A few.

12 Q. Where have you applied to work?

13 A. In Touro College in Brooklyn. There is a BE
14 program there.

15 Q. What is the BE program?

16 A. The same thing I was teaching.

17 Q. Basic ed?

18 A. Basic ed.

19 Q. And that's for adults?

20 A. Yes.

21 Q. Touro College in Brooklyn you said?

22 A. Yes. Presently I applied.

23 Q. When did you apply?

24 A. Last week. A teacher who was working there asked
25 if I could replace her.

K. WALD

1 Q. How many days of work would that job be?

2 A. I'm not sure yet.

3 Q. Have you heard back in regards to your
4 application?

5 A. No. Not yet. She's leaving at the end of the
6 month I think.

7 Q. You don't know the actual terms and conditions of
8 what this employment would be?

9 A. Correct.

10 Q. Have you applied anywhere else?

11 A. I'm in CUNY.

12 Q. You applied for a position with CUNY?

13 A. Yes. I'm listed looking for work with CUNY on
14 their website.

15 Q. When you say you're listed as looking for work,
16 what does that mean?

17 A. You go online and put in your area of
18 specialization and if they have your position they notify
19 you.

20 Q. When did you put your name on this CUNY list as
21 looking for work?

22 A. Two or three years ago.

23 Q. Have you ever heard back in regards to your
24 application on the CUNY website?

25 A. No.

K. WALD

1 Q. Have you ever followed up with CUNY in regards to
2 any positions that were available?

3 A. I know some teacher's that teach there in other
4 areas.

5 Q. And have you spoken to those teacher's?

6 A. It's a small program.

7 Q. Adult education at CUNY?

8 A. Yes.

9 Q. Have you applied for any other positions other
10 than with CUNY and Touro College?

11 A. There was going to be a position in District.

12 There used to be positions in DC37 but they closed the BE
13 program.

14 Q. Positions with DC37 is that the union?

15 A. Yes.

16 Q. There was an Adult Education program within the
17 union?

18 A. They had part-time and that was closed.

19 Q. When was that closed?

20 A. That closed I think last year.

21 Q. So when did you apply for a position?

22 A. I didn't apply because they closed it. I don't
23 know of any other positions, areas where they teach BE.

24 Q. So other than applying for a position with CUNY
25 and applying for a position with Touro College, have you

K. WALD

1 applied for any job at all?

2 A. The College of New Rochelle asked me if I could
3 teach Spanish.

4 Q. The College of New Rochelle? Where is the
5 College of New Rochelle?

6 A. In Brooklyn.

7 Q. When did they ask you to teach Spanish?

8 A. They asked me if I could teach Spanish on
9 Saturdays in the summertime.

10 Q. When did they ask you if you could teach Spanish
11 on Saturdays in the summertime?

12 A. Maybe in June. I'm not sure. But I don't work
13 Saturdays.

14 Q. June of 2017?

15 A. No. June of 2016.

16 Q. So about five months after you had retired from
17 the Department of Education?

18 A. Yes.

19 Q. Did you apply for a job with The College of New
20 Rochelle?

21 A. Many years ago. They found my resume and asked
22 me but I don't work on Saturdays.

23 Q. So you declined the position?

24 A. Correct.

25 Q. Anywhere else? Are there any other jobs that you

K. WALD

1 applied for other than the job with Touro, CUNY and The
2 College of New Rochelle?

3 A. I donated books to the International Rescue
4 Mission this past summer and they asked me if I want to
5 teach in the summertime.

6 Q. I'm sorry. You said that was the?

7 A. International Rescue Mission.

8 Q. The International Rescue Mission asked you if you
9 wanted to teach?

10 A. In the summertime.

11 Q. When did they make this offer?

12 A. I was there they made me the offer, right? They
13 asked me if I would be interested teaching in the
14 summertime.

15 Q. This was the summer of 2017?

16 A. Yes.

17 Q. And did you decline the offer?

18 A. I didn't want to work in the summertime.

19 Q. Are there any other jobs you applied for?

20 A. No.

21 Q. If you were offered a position with Touro
22 College, would you be physically able to perform in the
23 job?

24 A. I have to talk to the supervisor, ask her where
25 it is and the time and if I have to be there at 7:00 in the

K. WALD

1 morning, and there is no break until 6:00 o'clock at night.

2 I don't know. It depends on the job and the position.

3 Q. So in order to determine whether or not you could
4 accept the job it would depend on the hours that you were
5 offered and the terms and conditions of the job itself?

6 A. I don't understand the question.

7 Q. I can rephrase.

8 A. Okay.

9 Q. You won't be able to determine whether you can
10 physically perform at the job until you find out more about
11 the job; is that correct?

12 A. That's correct.

13 Q. And CUNY you have not heard back from?

14 A. Correct.

15 MR. REITER: Let's take a break.

16 MS. KAPITONOVA: Sure.

17 (Whereupon, a brief recess was taken.)

18 A. I'd like to say something. Did I tell you that
19 DC 37 school program was closed?

20 Q. Yes.

21 MS. KAPITONOVA: Back on the record.

22 A. And why I don't work on Saturdays is because of
23 religious observance.

24 Q. You don't work on Saturdays because of religious
25 observances?

K. WALD

1 A. Yes.

2 Q. What religion?

3 A. I'm Jewish.

4 MR. REITER: Please mark this exhibit.

5 (Whereupon, accomodation request was marked
6 as Defendant's Exhibit B for identification as of
7 this date by the Reporter.)

8 Q. Showing you what's been marked as Defendant's
9 Exhibit B. Now do you recognize this document?

10 A. Yes.

11 Q. Now what is this document?

12 A. Accomodation request form.

13 Q. Can you please turn to the bottom of the page,
14 where it says signature of the applicant?

15 A. Yes.

16 Q. Is that your signature?

17 A. Yes.

18 Q. So this is the accomodation request form that you
19 submitted on August 26, 2016; is that correct?

20 A. Correct.

21 Q. You previously stated this is the first medical
22 accomodation request that you've made since you started
23 working with the Department of Education?

24 A. Correct. I was out on disability once because I
25 broke my foot in the school.

K. WALD

1 Q. When were you out because you broke your foot, to
2 the best of your knowledge?

3 A. I don't know. 2002, 2003.

4 Q. Did you submit an accomodation request form like
5 this for your broken foot?

6 A. No. I was out on disability.

7 Q. So you were out on disability when you broke your
8 foot?

9 A. Yes.

10 Q. Have you ever made any other medical accomodation
11 request with the Department of Education?

12 A. No.

13 Q. So this form states on the bottom it was received
14 by the Department of Education on September 3, 2015; is
15 that correct?

16 A. That's what it says.

17 Q. So it says it was received by the Department of
18 Education on September 3rd, 2015; is that correct?

19 A. Yes.

20 Q. When was the first day of school for the 2015,
21 2016 school year?

22 A. I don't recall.

23 Q. Do you remember the month when the 2015-2016
24 school year would have started?

25 A. Prior the program started at the end of August

K. WALD

1 but I think it starts right after Labor Day.

2 Q. Was this accomodation request, submitted on
3 August 26, 2015, submitted prior to the start of the 2016
4 school year?

5 A. I believe so.

6 Q. Now where did you work during the 2015-2016
7 school year?

8 A. On 35 Street and 8th Avenue.

9 Q. What was the name of that school?

10 A. OACE Region 4.

11 Q. Is that the only school that you worked at during
12 the 2015-2016 school year?

13 A. Yes.

14 Q. Now do you see where the section where it states
15 disability limitation and job functions unable to perform?

16 A. Yes.

17 Q. So did you fill out this section?

18 A. I don't remember if I did or the PA did.

19 Q. This section states that you have chronic
20 lymphocytic leukemia, decreased work as patient is fatigued
21 and at a high risk for infection with stressed schedule; is
22 that correct?

23 A. Correct.

24 Q. Do you see the detailed description of the
25 accomodation request section?

K. WALD

1 A. Yes. I signed it.

2 Q. Now in this detailed description of accomodation
3 request you state, reduced travel time with the position
4 closer to her home or job hours more conducive with
5 adequate rest/decreased stress will prevent absences at
6 work and will allow for M.D. visits in her free time; is
7 that correct?

8 A. Correct.

9 Q. So is it fair to say that you were requesting
10 less work hours in this accomodation request?

11 A. No.

12 Q. Why not?

13 A. Because I didn't want fewer work hours; I just
14 wanted a more consolidated space or time so I could rest in
15 between.

16 Q. So what did you mean when you said job hours more
17 conducive to adequate rest/decreased stress?

18 A. So my program was split, okay. So that I have to
19 work a far distance, leave early in morning, get home, have
20 a little time to rest and then work four nights a week. So
21 I wanted a schedule where I would have to either travel
22 less or work more hours in one place so I wouldn't be
23 running around all the time.

24 Q. Is it possible that this could be construed as
25 meaning less hours because you requested job hours more

K. WALD

1 conducive to adequate rest?

2 MS. KAPITONOVA: Objection to form. You can
3 answer. If you can understand that question you
4 can answer.

5 A. I don't know how someone else can construe it.

6 Q. So you were not requesting to work less hours?

7 A. No. I wasn't requesting to work fewer hours, and
8 the negotiations afterwards -- the people negotiating for
9 me were also told that I didn't want fewer hours.

10 Q. You said the people negotiating for you. Who are
11 you referring to?

12 A. It was the union and Brewton.

13 Q. Who from the union are you referring to?

14 A. Tom Bennet.

15 Q. What did Tom Bennett say on your behalf?

16 A. I don't know. I wasn't privy to the conversation
17 but I told him that I didn't want fewer hours. I wanted a
18 schedule where I would be less susceptible to travel all
19 over the place and not all the time. And I was taking
20 anti-virals and all the chemotherapy and if your riding the
21 trains for an hour each way and then late at night, I was
22 more susceptible. Given the prior year, respiratory
23 infections on an ongoing basis, I was scared.

24 Q. Do you have any e-mails from Tom Bennet to
25 Mr. Brewton regarding your accomodation request?

K. WALD

1 A. He didn't tell me what the nature of the
2 conversation was. He told me he could accommodate, that
3 Mr. Brewton would do this or Mr. Brewton would do that.
4 Mr. Brewton agreed on the accomodation. The medical DNE
5 could not get Ms. Mills to agree. That was the nature of
6 the e-mails.

7 Q. The nature of the e-mails between?

8 A. That I received.

9 Q. Who were these e-mails between?

10 A. Between Tom Bennet, William Brewton and I think
11 Glen Darien (phonetic); I don't remember his last name.

12 It's the medical. Mr. Brewton said that he would give me
13 an accomodation if Ms. Mills would agree and Ms. Mills
14 would not agree.

15 Q. Do you have a copy of the e-mails from
16 Mr. Brewton saying he would give you an accomodation if
17 Ms. Mills would agree?

18 A. I think so, yes.

19 MR. REITER: We're going to call for the
20 production of these documents that we've made a document
21 request for.

22 Q. So you say that there was travel time which is
23 the problem for your work schedule; is that correct?

24 A. The whole package made it very stressful.

25 Q. When you say the whole package, what are you

K. WALD

1 referring to?

2 A. Travel early in morning, come back. Well, in the
3 morning I went to Brooklyn so I had to leave an hour, an
4 hour and fifteen minutes before school. Then I left in the
5 afternoon, it took maybe an hour, an hour and fifteen
6 minutes. So I got back at 3:00-something and I had to be
7 in work at another place at 5:00. So I was on the train a
8 lot, all the time, and there was very little time to rest.

9 Q. So you worked at two different locations during
10 the 2015-2016 school year?

11 A. Yes. Well, I didn't work --

12 Q. Right but the school year as itself --

13 A. From September 2015, right. I worked in two
14 different locations.

15 Q. So in September of 2015, you worked at two
16 different locations. One in Manhattan and one in Brooklyn;
17 is that correct?

18 A. Correct.

19 Q. You only worked at two different locations for
20 September of 2015?

21 A. What do you mean?

22 Q. After September 2015, did you still work at the
23 two different locations?

24 A. Yes.

25 Q. So how long did you work at the two different

K. WALD

1 locations for?

2 A. From the beginning of the school year till I went
3 on terminal leave.

4 Q. So from September 2015 until you went on terminal
5 leave, you were working at the two different locations?

6 A. Correct.

7 Q. When you made this accomodation request, would
8 job hours be more conducive to what adequate rest have
9 been?

10 A. Well, I had to work 36 hours so I wanted to work
11 two nights and then a full-time schedule during the day.

12 So that means I wouldn't have to go, leave and come back
13 and leave and come back four days in a row.

14 Q. Okay. So how many nights were you working?

15 A. Four nights.

16 Q. You wanted to work two nights and four days; is
17 that correct?

18 A. Two nights and five days.

19 Q. And your schedule was what?

20 A. Five mornings and four nights.

21 Q. Okay. And you wanted to teach at the Manhattan
22 location; is that correct?

23 A. When?

24 Q. What schedule did you want the school to grant
25 you?

K. WALD

1 A. I told you what I wanted.

2 Q. But where? Where did you want it?

3 A. I didn't specify the location.

4 Q. Since you didn't specify a location, where did
5 you want them to place you?

6 A. In fact no one asked me where I wanted to go.

7 Q. So where did you want to go to?

8 A. Had they given me a program of five days and then
9 two nights, I would have been amenable to many places.

10 Q. Where would you have been able to go?

11 A. I could have gone to Queens. I could have gone
12 to Brooklyn. I could have gone to New York.

13 Q. Is Queens closer to your home than Brooklyn?

14 A. Depending on where it is. If it was in Queens,
15 Queens is 20 minutes. There are locations in Queens.

16 Q. Did you request a specific location to the
17 Department of Education?

18 A. I was not asked to request anything. I was told
19 that I wouldn't be given anything.

20 Q. Who told you that you wouldn't be given anything?

21 A. Glen Darien. That Ms. Mills would only partially
22 accommodate the hardship.

23 Q. Who is Glen Darien?

24 A. He was the guy in the DOE management position.

25 Q. Did you tell Glen Darien that you wanted to go to

K. WALD

1 Queens at that time?

2 A. He did ask me.

3 Q. But did you tell him that you wanted to go to
4 Queens?

5 A. Why would I tell him where? I didn't know what
6 was available. No one had sat with me to see if they could
7 find something available. I don't know if Tom Bennett or
8 Patty Crispino in her negotiations -- they both tried to
9 negotiate with Ms. Mills but I was not privy to those
10 negotiations.

11 Q. So other than this request, you never made a
12 specific request about where you wanted to work in regards
13 to a position closer to your home?

14 A. Correct. No more detail than that.

15 Q. So you never specified what position closer to
16 your home that you wanted?

17 MS. KAPITONOVA: Objection, asked and
18 answered. You can answer.

19 A. Could you repeat the question?

20 Q. Sure. You never specified which position closer
21 to your home that you wanted?

22 A. I didn't have a specific position in mind.

23 Q. So you never specified which position closer to
24 your home you wanted?

25 MS. KAPITONOVA: Objection. You can answer.

K. WALD

1 A. The nature of the program is there are lots of
2 openings in various schools. At this time I don't know
3 what was available so nobody sat down with me and said can
4 we try to work out a program with you.

5 Q. The answer is yes or no. You didn't specify a
6 position closer to your home that you specifically wanted?

7 MS. KAPITONOVA: Objection.

8 A. Had someone asked me would you like to come in
9 and see if you can work out a program, I would have said
10 yes.

11 Q. Okay. But nobody did that?

12 A. Correct. I would like to say that I tried for a
13 different position that they did have a back to back.
14 Where the time was more consolidated.

15 Q. You applied for a different position?

16 A. A counseling position, where the schedule was
17 more consolidated.

18 Q. When did you apply for the counseling position?

19 A. Maybe in July of 2015.

20 Q. So in July of 2015 you applied for a counseling
21 position?

22 A. Right.

23 Q. And where would that position have been located?

24 A. There were various counseling positions.

25 Q. Where were the various counseling positions?

K. WALD

1 A. There was one in Brooklyn; there might have been
2 one in Queens or one in the Bronx. I'm not quite sure but
3 in that case the teacher goes in for six and a half then
4 you leave. So it reduces the travel time for me.

5 Q. So it would just be at that one location for six
6 and a half hours?

7 A. Correct.

8 Q. If you had taken that position, how would you
9 have worked 46 hours?

10 A. I could have worked at night the other two times.

11 Q. Who did you make that application to for the
12 counseling position?

13 A. I submitted to Ms. Mills. I don't know who is
14 involved in the application but I submitted it to the
15 department and I'm sure Ms. Mills makes the final decision.

16 Q. So you submitted it to Ms. Mills?

17 A. I submitted the application.

18 Q. Did you ever hear back with respect to the
19 counseling position?

20 A. I didn't hear back. I was not given the job and
21 I grieved it.

22 Q. You grieved on the counseling that you were not
23 given the counseling position job. When did you grieve
24 that?

25 A. In September.

K. WALD

1 Q. September 2015?

2 A. Correct.

3 Q. What was the basis of the grievance in

4 September 2015?

5 A. That she didn't follow the process. It asked for
6 a tenure teacher and it was given to a teacher who was not
7 tenure.

8 Q. The counseling position was given to a teacher
9 that was not tenured?

10 A. Yes.

11 Q. Your grievance showed that the application was
12 for a tenure teacher?

13 A. That's what it said on the application.

14 Q. So the counseling application required someone
15 who was tenured?

16 A. I'm pretty sure it said tenured or full-time
17 teacher in Adult Ed.

18 Q. Was the teacher who hired for the position a
19 full-time teacher?

20 A. She became full-time when she got the job. Not
21 prior to that.

22 Q. So you applied for this counseling position prior
23 to making the medical accommodation request; is that
24 correct?

25 A. Correct. With a view that that would have helped

K. WALD

1 relieve some of the reasons why I needed an accomodation.

2 Q. I'm sorry. Can you repeat that?

3 A. I applied for the other position with a view that
4 that would have helped my medical condition.

5 Q. So you applied for the counseling position with a
6 view that it would have helped your medical condition?

7 A. Right.

8 Q. But you hadn't informed the board of education
9 that you had a medical condition at the time you applied
10 for that position?

11 A. Correct.

12 Q. So they were not aware of your medical condition
13 at the time you applied for the counseling position?

14 A. That's correct.

15 MR. REITER: Please mark this.

16 (Whereupon, application was marked as
17 Defendant's Exhibit C for identification as of
18 this date by the Reporter.)

19 Q. Ms. Wald, I'm showing you Defendant's Exhibit C.
20 Do you recognize this document?

21 A. Yes.

22 Q. What is this document?

23 A. Application for a hardship transfer.

24 Q. So do you see the date that this application
25 was --

K. WALD

1 A. 9/25.

2 Q. And that's your signature on the application?

3 A. Yes.

4 Q. Now what was the purpose of this application?

5 A. I was instructed to fill out a medical hardship
6 transfer.

7 Q. Who instructed you to fill out an application for
8 hardship transfer?

9 A. Either Patty Crispino or Tom Bennett.

10 Q. And what were you hoping to accomplish by filing
11 this application for hardship transfer?

12 A. I was trying to reduce the possibility of my
13 getting sick with all the travel and the broken teaching
14 schedule.

15 Q. Okay. Did you speak to Patty Crispino and Tom
16 Bennett about this application?

17 A. Either Patty or Tom Bennet told me to apply for a
18 medical hardship.

19 Q. When you applied, where were you hoping to be
20 transferred?

21 A. I didn't have a specific location where; I didn't
22 have access to all of the available positions, okay? But
23 one could reasonably look at a map and say, I live here so
24 I can travel here. That's one thing. Or I can travel
25 there. That's another thing. And from there to there or

K. WALD

1 from here to there, so.

2 Q. Right. But if just going by schools within the
3 office of adult continuing education, what would your ideal
4 schedule have been?

5 A. I was working 36 hours, okay. Just reduction of
6 travel so that I would have more time rest in between the
7 positions, the teaching jobs.

8 Q. Okay. So you still wanted to --

9 A. So I didn't have to work, you know, from 7:30 in
10 the morning until 9:30 at night, four days week, which is
11 basically what my schedule was in September of 2015.

12 Q. Did you want to be transferred from either the
13 Manhattan location or Brooklyn location?

14 A. Would I want to be transferred?

15 Q. Yes.

16 A. I wanted a more workable schedule. I didn't
17 necessarily care if I was transferred. If a schedule could
18 have been composed, created then that would have been fine.
19 It says here, hours more conducive to adequate rest.

20 Q. What are you referring to?

21 A. From Exhibit B. So if a better position in
22 Brooklyn would have been created so that I wouldn't have to
23 travel four nights a week or something like that, that
24 would have be fine.

25 Q. So a better position. So you would have wanted

K. WALD

1 them to create a position in Brooklyn for you?

2 A. As I said, I traveled from quarter after 10:00 in
3 the morning and I was finishing working at 9:30 at night,
4 four nights a week, okay? If something was brought to my
5 attention that would have reduced that very difficult
6 schedule for me because I just started chemotherapy, I
7 might have been very amenable. Nothing was provided.

8 MR. REITER: Mark this exhibit, please.

9 (Whereupon, ADA form was marked as
10 Defendant's Exhibit D for identification as of
11 this date by the Reporter.)

12 Q. Do you recognize this document?

13 A. Yes.

14 Q. What is this document?

15 A. ADA accommodation form.

16 Q. So this is in regard to the accommodation request
17 that you filed; is that correct?

18 A. Correct.

19 Q. You've seen this document before?

20 A. Yes.

21 Q. Now this document specifically states your
22 request was medical warranted; is that correct?

23 A. That's what it says.

24 Q. It also states that Equal Opportunity has
25 discussed the accommodations listed below and has received

K. WALD

1 an e-mail confirmation from the employee supervisor that
2 these accommodations will be implemented; is that correct?

3 A. I don't know what she did, what the supervisor
4 did with the OEO.

5 Q. Is that exactly what it states on the letter?

6 A. Yes.

7 Q. In the letter itself, this is signed by William
8 Brewton; is that correct?

9 A. Yes.

10 Q. It states that per Superintendant Mills,
11 Ms. Wald's request to be assigned to a school closer to
12 home cannot be accommodated because there are no available
13 openings; is that correct?

14 A. Yes.

15 Q. It also states, please note from the e-mail that
16 Ms. Wald was working at a site near her home when she gave
17 up the option; is that correct?

18 A. No.

19 Q. But is that what it states on this document?

20 A. Yes.

21 Q. It also states, please note that the board can
22 accommodate Ms. Wald with a reduced schedule, is that
23 correct?

24 A. That's what it says.

25 Q. Now it states that as I mentioned, that you were

K. WALD

1 working at a site near your home for 2014-2015 school year
2 and you gave up the option. You mentioned that that's not
3 correct. Why is that not correct?

4 A. I live on East 17th Street and West 35 Street so
5 it took 20 to 25 minutes to get there. There are some
6 places where I could have gone to Queens where it would
7 have taken 20 to 25 minutes. Well the option was giving up
8 thinking that I was going to get something else, okay, as
9 the chapter leader. So I gave it up thinking that there
10 would be something available and then the rug was pulled
11 out.

12 Q. So you're saying you gave up your schedule at
13 West 35 Street because you were the chapter leader; is that
14 correct?

15 A. No. I gave up my schedule at West 35 Street
16 because there were other teacher's that retired and I
17 thought that those jobs would be listed in the placement
18 center when I gave up my job to look for a new job.

19 Q. So you how did you find out that teacher's were
20 retiring?

21 A. I was the chapter leader.

22 Q. So the teacher's told you that they were
23 retiring?

24 A. I requested that the teacher's who were retiring
25 to submit their paperwork early because the prior year

K. WALD

1 there was a few teacher's that were retiring and their
2 papers were not completed so their jobs were not put on the
3 placement center list. So in order to make the retiring
4 teacher's jobs available to other teacher's, I had the
5 retiring teacher's make sure that their job, their retiring
6 papers were handed in a timely fashion prior to the end of
7 the year.

8 Q. So you thought that those teacher's would file
9 their requirement papers at the end of the 2014-2015 school
10 year?

11 A. I know they did.

12 Q. So you're saying that they did file their papers
13 on time?

14 A. Right.

15 Q. So did you know the positions that were going to
16 to be available?

17 A. Yes.

18 Q. Before you requested a schedule change?

19 A. Yes.

20 Q. And you're saying that they were not available at
21 the hiring hall?

22 A. That's correct.

23 Q. Why were they not available at hiring hall?

24 A. Ms. Mills didn't want to make them available.

25 Q. How do you know that Ms. Mills didn't want to

K. WALD

1 make them available?

2 A. I was the chapter leader.

3 Q. Right. But did she specifically tell you that
4 she didn't want to make them available?

5 A. The prior year when teacher's were retiring, was
6 to make the paperwork complete and she would put that job
7 on the list. So in order to not get into that mess, okay,
8 we had all of the teacher's complete their papers
9 beforehand so we knew those jobs would be available. But
10 then there's this little rule or something where she has
11 the right not to put the job on the list until July 1st in
12 case the teacher is going to change his mind. A lot of
13 principals don't do that but Ms. Mills did do that and jobs
14 where teacher's retired were not listed.

15 Q. Did Ms. Mills tell you that the jobs were not
16 going to be listed prior to you requesting a schedule
17 change?

18 A. No.

19 Q. So when did you find out that the job that you
20 thought was going to be listed was not actually listed?

21 A. When I had to look for a new position.

22 Q. When was that?

23 A. The day of the placement center.

24 Q. On June 29, 2015?

25 A. If that was the date, that's correct.

K. WALD

1 Q. So you showed up for the hiring hall on that day?

2 A. Yes.

3 Q. And you thought the positions would be available
4 when you showed up at the hiring hall that day?

5 A. Correct.

6 Q. They were not available on June 29, 2015?

7 A. Correct.

8 Q. Did you speak to anyone at the hiring hall and
9 ask where those positions were?

10 A. Correct.

11 Q. Who did you speak to?

12 A. Patty Crispino and Ms. Mills.

13 Q. There were at the hiring hall that day?

14 A. Yes.

15 Q. What did Ms. Mills say to you that day?

16 A. That she wasn't going to put them on the list.

17 Q. Why did she say she wasn't going to put them on
18 the list?

19 A. She didn't have to until July 1.

20 Q. So technically she didn't have to put those jobs
21 on the list for the hiring hall.

22 A. Right. Technically. But a teacher on June 29 is
23 not going to change his mind on June 30 and say I'm not
24 retiring.

25 Q. But Ms. Mills technically did not have to put

K. WALD

1 those jobs on the hiring hall list?

2 A. Right. But many other places they do.

3 Q. When you say other places?

4 A. Many other programs, they do.

5 Q. Aside from Adult Education?

6 A. Correct.

7 Q. So what schedule did you think you were going to
8 be assigned at the hiring hall?

9 A. Well I knew there were retiring teacher's and I
10 knew I had some seniority so I thought I might get one
11 program where I could work two nights a week and the rest
12 where I would work in the day time. The idea was not to go
13 to work four nights a week and come home at 9:30 and then
14 go to work at 7:30.

15 Q. So your goal was to go home two nights a week?

16 A. Correct.

17 Q. And how many days a week did you say you worked?

18 A. Five days and four nights. I wanted to reduce it
19 so I wouldn't have to go four nights.

20 Q. So your intention at the hiring the hall --

21 A. My hope.

22 Q. -- your hope at the hiring hall was to go five
23 days a week and then two nights a week?

24 A. That was my hope but maybe there could have been
25 something else that would have accommodated me so that I

K. WALD

1 wouldn't have been going to work all day for four days,
2 morning, afternoon, night.

3 Q. All right. So I'm going back to Exhibit D right
4 here, which is the letter that we had just been talking
5 about. Do you have Exhibit D in front of you?

6 A. Yes.

7 Q. Now after you submitted your accommodation
8 request, which was on August 26, 2015, Ms. Wald stated that
9 there were no openings at schools closer to your home and
10 therefore you cannot be accommodated. So if there were no
11 openings at this time on October 8, 2015, how could you
12 have been given an accommodation?

13 A. I was not privy to, okay. Ms. Mills stated that,
14 okay. I didn't see the available jobs there were available
15 to see if I can change my schedule. Those discussions went
16 on with either Tom Bennett or William Brewton, I don't
17 recall. Ms. Mills had the flexibility to accommodate me if
18 she wanted to.

19 Q. How do you know that she had the ability to
20 accommodate you if she wanted to?

21 A. Because my schedule in BALC. The schedule is
22 usually let's say 9:00 to 12:00, I don't remember exactly.
23 9:00 to 12:00 in the morning, okay. But I don't work on
24 Saturdays as I mentioned, okay. And so I couldn't stay in
25 Brooklyn until 3:30 and then get home in the winter for

K. WALD

1 Saturday because Friday night starts early, okay. So she
2 changed the schedule so that it was 9:00 to 1:34 so I won't
3 have to be there later. Another teacher started at 8:30,
4 okay. So Ms. Mills had the flexibility to change the
5 hours.

6 Q. So you say another teacher started at 8:30?

7 A. Right.

8 Q. Who was that teacher?

9 A. Joy Liberman (phonetic).

10 Q. So you're saying that in the beginning of the
11 school year she was initially starting at 9:30 and then she
12 changed her schedule changed to 8:30?

13 A. She started at 8:30 where as most of the
14 teacher's started at 9:00.

15 Q. You started at 9:30 --

16 A. No. I started at 9:00 but I worked until 1:34.

17 Q. So if you started at 8:30, what would your
18 schedule have been?

19 A. I don't know. It could have worked out. I mean,
20 she could have made it from 8:30 to 2:00. So then, I don't
21 know, I was getting a half hour in the morning and a half
22 hour -- I don't know, whatever it would have made up, six
23 hours, whatever, right. If I got an hour a day for five
24 days. She could have made it. And then I would only have
25 to go two nights. I'd have to work out the schedule but

K. WALD

1 she had flexibility in the timing of the classes and the
2 hours in the BALC. She said that.

3 Q. What's the BALC?

4 A. That's the Brooklyn location.

5 Q. So she said that she had flexibility to change
6 the hours of your --

7 A. She changed my hours because I couldn't work on
8 Saturday. On Friday and late in the afternoon from
9 Brooklyn.

10 Q. So she accommodated your religious observances?

11 A. Correct. And she accommodated the other teacher?

12 Q. But your schedule had been set before this
13 accommodation request was denied, correct?

14 A. My schedule was set at the placement center.

15 Q. Right. So when the school year started, how
16 could Ms. Mills have accommodated you without changing
17 other teacher's classes?

18 A. It has nothing to do with other teacher. It's
19 just a class. My schedule has nothing to do with other
20 teacher's.

21 Q. So you received this letter, correct?

22 A. Correct.

23 Q. Did you suggest any of these options to either
24 Patty Crispino or Tom Bennett to propose to Ms. Mills?

25 A. I'm sure I did. And I'm sure Patty Crispino did.

K. WALD

1 Q. So what did you say to Patty Crispino that she
2 told to Ms. Mills?

3 A. That she had flexibility to work with the
4 schedule or she could have showed me but Ms. Mills engaged
5 in dialogue with me.

6 Q. Okay. What did Patty Crispino say to Ms. Mills
7 to the best of your knowledge?

8 A. To the best of my knowledge I'm sure she tried to
9 get Ms. Mills to accommodate my schedule.

10 Q. Without proposing any --

11 A. I don't know what she proposed, okay. But she
12 knows what I was looking for as did Tom Bennett, okay, as
13 did William Brewton and they talked to Ms. Mills. I
14 didn't. Ms. Mills never talked to me.

15 Q. So you're saying that your issue would not have
16 depended on the classes that were being taught themselves
17 but on the hour of the classes?

18 A. She established a new class for me.

19 Q. When did she establish a new class for you?

20 A. When I started in September. That class did not
21 exist prior to me.

22 Q. Right. So when this accommodation request was
23 made, how could she accommodate your schedule without
24 changing the classes that had already been set in stone?

25 A. They've all been in closed classes all the time.

K. WALD

1 Q. Right. But isn't that based on demand in terms
2 of the amount of students in the room?

3 A. I don't know what -- if it's based on demand or
4 for whatever reasons. But opening and extending the length
5 of a class doesn't have anything to do with demand; it's
6 just extending the length. To the class you could stay an
7 hour longer or could you come an hour earlier.

8 Q. Did you ever convey that in your discussions with
9 Ms. Mills or did anyone else?

10 A. Ms. Mills never spoke to me.

11 Q. Did your representative ever convey that?

12 A. I would assume they definitely did.

13 Q. Do you have an communication reflecting that that
14 request was made?

15 A. No. I would like to say something else?

16 Q. Go ahead.

17 A. In my class my students often came early as I
18 came early to get ready and they stayed later. So you
19 spoke about demand, who knows if they would have stayed.

20 Q. I'm sorry. I'm not following.

21 A. You said that she doesn't know if there was any
22 demand. My students often came early and wanted to stay
23 later, okay. So extend the hours of the class. There
24 might have been plenty of students who were willing to do
25 that.

K. WALD

1 Q. Wouldn't have extending the hours made you get
2 home later in the night?

3 A. I would have only had to go to work two nights
4 instead of four.

5 MR. REITER: Mark this exhibit please.

6 (Whereupon, letter was marked as Defendant's
7 Exhibit E for identification as of this date by
8 the Reporter.)

9 Q. I'm handing you what has been marked as
10 Defendant's Exhibit E. Do you recognize that document?

11 A. Yes.

12 Q. It is the letter you received from the Department
13 of Education on October 9, 2015?

14 A. Yes.

15 Q. And it's stated that your request for medical
16 accomodation has been partially provided in the form of a
17 reduced work schedule; is that correct?

18 A. That's what it says, yes.

19 Q. Now it also states that your request for an
20 assignment closer to home cannot be accommodated
21 administratively; is that correct?

22 A. Yes.

23 Q. So after you received this letter, what happened
24 next? Were your hours reduced?

25 A. No. I didn't do that and I went on terminal

K. WALD

1 leave. I applied for terminal leave after this.

2 Q. In December of --

3 A. I have to apply a month before.

4 Q. So you applied after you received this letter for
5 terminal leave?

6 A. Soon after. I don't know exactly when. I had to
7 inform myself how that would happen etc. and then I applied
8 for terminal leave.

9 Q. So after the Department of Education sent you
10 this letter, did they offer to reduce your hours?

11 A. I think so.

12 Q. And you declined that offer for less hours?

13 A. I have a question.

14 Q. Sure.

15 A. Does your request for assigning schools closer to
16 home cannot be, how do they know what route was closer to
17 my home?

18 Q. I cannot answer that question.

19 A. Just put that down.

20 Q. But this letter itself says that your request for
21 an assignment closer to home cannot be accommodated?

22 A. I'm just curious if when the decision was made,
23 okay. If they took Google Maps and say I live five miles
24 in this direction and this direction and see what's closer
25 to home than Nostrand Avenue. So I want to know if that

K. WALD

1 was ever done.

2 Q. So you're saying that the Queens location would
3 have been closer than the Brooklyn location?

4 A. Yes.

5 Q. Why didn't you apply to a Queens location when
6 you went to the hiring hall on June 29, 2015?

7 A. Why didn't I apply? Because there were none.

8 Q. So there was no vacancies in Queens?

9 A. As far as I recall there were none. I think
10 there was a problem getting a consolidated program, okay.
11 In the morning and the night. If there was one in Queens,
12 I promise you, I would have taken it.

13 Q. If there was nothing available at the Queens, how
14 could they have accommodated your schedule
15 administratively?

16 A. As I said she accommodated my schedule
17 administratively in Brooklyn because of religious
18 observances.

19 Q. Right. But that was back in June 29, 2015,
20 correct?

21 A. She could have just extended the hours. I don't
22 know if she could have looked, I mean, I could have left my
23 program to see if I could have put anything else together.

24 Q. If there was an opening at the Queens your
25 saying?

K. WALD

1 A. As I said, this is an assumption of what's closer
2 to home based on whoever wrote this. I don't know how they
3 knew what was closer to home than I did.

4 Q. Right. But you received this letter on October
5 9, 2015, correct?

6 A. Correct.

7 Q. Did you then say to Tom Bennet that you wanted to
8 change your schedule to Queens?

9 A. Based on my telephone conversations as far as I
10 recall. I'm sure there were very very adamant advocates
11 that tried to get me a more accommodating schedule.

12 Q. In Queens I'm asking?

13 A. Anywhere.

14 Q. But anywhere wasn't my question.

15 A. I don't know what was available because I wasn't
16 privy to the available job at the time or to discussions.

17 Q. My question is simply, did they make a request
18 for you to have your schedule changed to work at a location
19 in Queens?

20 A. I don't know what was said. They made it where I
21 could work.

22 Q. Did you tell them that you wanted to work at the
23 location closer to your home in Queens?

24 A. This issue was not if it was closer to home. If
25 it was closer to home in a way to reduce the travel time.

K. WALD

1 If it was that I had to travel a little more but not four a
2 day, then that would have been better. The idea was to
3 reduce, so that I wouldn't have travel every day from 7:30
4 in the morning to 9:30 at night.

5 Q. But in the accommodation request form you
6 submitted you did specifically request for a position
7 closer to home, correct?

8 A. That was an option, right. But I'm sure that
9 they negotiated for anything that could have been made.

10 Q. My question is, did you state to either your
11 union rep or anyone at the Department of Education that you
12 would have been amenable to working at the location in
13 Queens?

14 A. I'm sure I did.

15 Q. You are sure that you did say that?

16 A. Yes. I don't know I said that but I'm sure they
17 knew that.

18 Q. You don't know if you said that but you're sure
19 that they knew that --

20 A. Right.

21 Q. -- even though you didn't necessarily say that?

22 A. I don't know what I said but they knew the issue
23 just as I described to you the issue. It was the traveling
24 from 7:30 to 9:30 four days a week, that terrified me.

25 Q. Okay.

K. WALD

1 THE WITNESS: Can we take a break?

2 MR. REITER: Of course.

3 (Whereupon, a short break was taken.)

4 A. I want to clear something up for you, okay. You
5 asked me how do I know that Tom Bennett and Patty Crispino
6 knew what I wanted. Because I recently won an arbitration
7 for 36 hours. I need those additional hours for my
8 retirement and I worked very hard for them and waited a
9 long time. So Patty Crispino knew I needed those 36 hours
10 and she knew the nature of my condition. If it was
11 possible to make something for more amenable so that I
12 could keep those hours. She knew that I would not be
13 willing to give up those six hours and she negotiated. I'm
14 sure she did, okay. To try to get the easiest schedule for
15 me while maintaining those hours. So, you know, I didn't
16 have to say, did you find something in Queens, did you find
17 something here. She knew how to make up a schedule. She
18 sat with me I did chapter leader for three years making up
19 schedules and negotiating so since I didn't have a direct
20 negotiation or dialogue with Ms. Mills, she was my
21 mouthpiece and I trusted her. She knew exactly what I
22 needed and I had no problem in trusting her with any way to
23 accommodate me so that I wouldn't have to give up those
24 work hours. And anything that she could have put together,
25 I'm sure would have been extremely satisfactory.

K. WALD

1 Q. Did Ms. Crispino tell you that there was nothing
2 that the DOE could do to accommodate you?

3 A. I got this letter.

4 Q. Right. I'm saying did Ms. Crispino specifically
5 say anything to you about it?

6 A. She said that Ms. Mills was not willing to
7 accommodate my schedule with all the hours.

8 Q. What did she mean by that statement?

9 A. Ms. Mills was very unwilling to accommodate
10 anybody. I was the chapter leader for three years;
11 everything with Ms. Mills was a battle.

12 Q. That's what Ms. Crispino said to you?

13 A. No. I'm telling you.

14 Q. I'm specifically asking what Ms. Crispino said to
15 you?

16 A. She said that in so many words. I don't recall
17 exactly what she said, that Ms. Mills was not willing to
18 accommodate me with what I needed. She said that she could
19 give me reduced work, that's all. But I know from
20 experience that Ms. Mills never talked to me, if it wasn't
21 as a chapter leader. And everything when I had to
22 negotiate with Ms. Mills was a battle.

23 Q. But she said she could give you a reduced
24 schedule?

25 A. She said she could give me a reduced schedule but

K. WALD

1 I didn't want a reduced schedule.

2 Q. I'm not saying whether you wanted it. But she
3 did offer you a reduced schedule; correct?

4 A. Yes.

5 Q. Okay. In paragraph 13 of your complaint you
6 allege that because of the failure to reasonably
7 accommodate, plaintiff, Ms. Wald had to take a reduced
8 wage, which would not have been necessary if the
9 accommodation request to work closer to home had been
10 accommodated. When were you required to take a reduced
11 wage?

12 A. When they wanted to give me the reduced work
13 schedule.

14 Q. But you didn't accept that reduced work schedule?

15 A. No. I left instead.

16 Q. So you never actually took a reduced wage; is
17 that correct?

18 A. Correct.

19 Q. So that is not true in the complaint you had
20 made?

21 A. I couldn't accept the offer of a reduced wage.

22 Q. So you never took the reduced wage, correct?

23 A. Correct.

24 MS. KAPITONOVA: I have to clarify, we're
25 talking Exhibit A, correct?

K. WALD

1 MR. REITER: Correct. We're talking about
2 the complaint, which is Exhibit A.

3 MS. KAPITONOVA: So what page is that on?

4 MR. REITER: That would be page four of
5 eight.

6 MS. KAPITONOVA: Four.

7 MR. REITER: Please mark this exhibit.

8 (Whereupon, schedule was marked as
9 Defendant's Exhibit F for identification as of
10 this date by the Reporter.)

11 A. I just want to say this. Had I taken the reduced
12 schedule it would have had a material effect on my
13 retirement.

14 Q. Right. Had you taken the reduced schedule.

15 A. So I had to consider that.

16 Q. But you did not take the reduced wage?

17 A. For the reasons that I had mentioned.

18 Q. Does this document accurately reflect your
19 schedule for the 2014-2015 school year and for 2015-2016
20 school year? Take your time.

21 A. Yes.

22 Q. So you only taught a total of 24 hours a week
23 during the 2014-2015 school year; is that correct?

24 A. Correct.

25 Q. And the remaining six hours of your schedule

K. WALD

1 during the 2014-2015 school year was dedicated to union
2 duties?

3 A. Correct.

4 Q. How long did you have union duties during the
5 time period that you were employed by the DOE?

6 A. For three years.

7 Q. So what was your position with the union for
8 three years?

9 A. I was chapter leader.

10 Q. What year were you elected to become the chapter
11 leader?

12 A. 2012.

13 Q. What union were you part of?

14 A. UFT.

15 Q. Can you just state what that stands for, please,
16 for the record?

17 A. The union -- is it united? I forgot -- Union
18 Federated teacher's or United Federated teacher's.

19 Q. And you stated previously that you were the
20 chapter chair person?

21 A. Chapter leader.

22 Q. And you were the chapter leader from 2012 until
23 when?

24 A. Until June 30, 2015.

25 Q. So you were the chapter leader until the day

K. WALD

1 after the hiring hall?

2 A. Yes.

3 Q. And you were the chapter leader throughout the
4 duration of the 2014-2015 school, correct?

5 A. Yes.

6 Q. What were your responsibilities as a chapter
7 leader?

8 A. To consult with Ms. Mills because she was the
9 person with whom consultations took place and we
10 represented teacher's, educate the teacher's, work with the
11 teacher's in various regions, work with the principals and
12 try to create a better working environment.

13 Q. Did you have to be elected to this position as
14 the chapter leader?

15 A. Yes.

16 Q. When was the election held ever year?

17 A. It was on a three-year basis.

18 Q. So it was three-year term?

19 A. Yes.

20 Q. Do you remember that date of your election for
21 chapter leader in 2012?

22 A. No. Sometime in June.

23 Q. And when was the voting held for the chapter
24 leader position in 2015?

25 A. Sometime in June.

K. WALD

1 Q. So sometime prior to June 30, 2015?

2 A. Correct.

3 Q. Did you run against someone for the chapter
4 leader?

5 A. I didn't run.

6 Q. Okay. So you didn't run?

7 A. I was too sick.

8 Q. Were you planning on running?

9 A. No.

10 Q. You knew that you were not going to run for
11 re-election at the end of your term?

12 A. Correct.

13 Q. When did you decide that you were not going to
14 run for re-election as the chapter leader?

15 A. I don't know. April, May, June. I was getting
16 sicker. It was a very arduous and intensive job with long
17 hours and at that time I was very nervous about my
18 condition.

19 Q. If not for your medical condition keeping you
20 from running, do you think you would have a run again for
21 chapter leader position?

22 A. Yes.

23 Q. Who took over the chapter leader position once
24 you decided not to run for re-election?

25 A. The person who was elected.

K. WALD

1 Q. Who is that person?

2 A. Irene Rosa (phonetic).

3 Q. Now you mentioned previously that you had filed a
4 grievance during the 2014-2015 school year to add
5 additional hours to your schedule produced in the 2015-2016
6 school year?

7 A. No.

8 Q. You didn't try to file a grievance to try to
9 obtain more hours teaching?

10 A. I filed a grievance. It was not in 2014.

11 Q. When was it filed?

12 A. Seven years, I think perhaps six or seven years
13 prior to that.

14 Q. The grievance you had filed for an additional six
15 hours you filed six or seven years prior to that?

16 A. Six or seven year prior to that.

17 Q. Do you remember the year it was filed?

18 A. Maybe 2008. I don't remember years about
19 anything. Perhaps, but it was five or six years prior to
20 that, it was a big arbitration.

21 Q. Was it just for you or for other teacher's as
22 well?

23 A. It set a precedent so that it impacted many
24 teacher's.

25 Q. But the arbitration was solely brought by you?

K. WALD

1 A. Correct.

2 Q. So you won this grievance. When was that
3 grievance decided?

4 A. If I think in April 2015. Don't quote me but I
5 think then because it started in November then I think it
6 was decided in April. For some reason it kept getting
7 messed up.

8 Q. Okay but the grievance was decided so that you
9 could add the additional hours to your schedule for the
10 2015-2016 school year?

11 A. Yes.

12 Q. So if you look at Exhibit F, which I handed to
13 you, your schedule for the 2015-2016 school year reflected
14 that the additional hours that you were entitled to were
15 placed on the grievance you had filed?

16 A. That's correct.

17 Q. So you wanted more teaching hours added to your
18 schedule?

19 A. Correct. And the past years they didn't have
20 those hours I was paid for, okay. So by eliminating those
21 hours I would have a reduction in salary.

22 Q. Right. In your complaint, which is Exhibit A,
23 you allege that you were forced to take a job assignment
24 with the DOE in Bedford-Stuyvesant, Brooklyn for five
25 mornings a week from 9:00 a.m. to 1:34 p.m.

K. WALD

1 A. Where is that?

2 Q. That would be paragraph 14 on page four.

3 A. There were other jobs but this is the one that
4 Ms. Mills had arranged the hours so that I could not work
5 on Friday afternoons, okay. That I could leave on time on
6 Friday afternoon. That's why. There were other positions
7 but she wasn't willing to be flexible with time in other
8 places. She only wanted me; she would only be flexible
9 with the time, which was 1:43 and be in Brooklyn.

10 Q. When you say she wasn't willing to be flexible in
11 in other places, are you saying that she could have been
12 flexible in other places?

13 A. I don't know if she could have, okay. But she
14 wasn't, right. I don't know if she could have.

15 Q. So she was already working to your religious
16 observances and providing you with a schedule that required
17 you to work in Brooklyn for five mornings per week; is that
18 correct?

19 A. She had a problem, okay. There was already a
20 grievance filed for religious observance. I'm sure she
21 wasn't going to look for another grievance for religious
22 observance but I didn't get home until midnight.

23 Q. Right. But my point is she accommodated your
24 religious observance with the schedule that you had before
25 the 2015-2016 school year?

K. WALD

1 A. Right.

2 Q. So how then were you forced to take a job in
3 Bedford-Stuyvesant?

4 A. There wasn't another place where she was willing
5 to do that.

6 Q. When you say they, was she able to do that?

7 A. I don't know.

8 Q. Based on the availability?

9 A. Based on, okay. This was the only one that she
10 said she would change the schedule, okay. Do I know if she
11 could have someplace else, I don't know that.

12 Q. So just so we're clear. Based on the schedule in
13 2015-2016, you worked at both the Alternative Education
14 Complex on West 35 Street and also the Brooklyn Adult
15 Learning Center; is that correct?

16 A. Right.

17 MR. REITER: Please mark this exhibit.

18 (Whereupon, e-mail was marked as Defendant's
19 Exhibit G for identification as of this date by
20 the Reporter.)

21 Q. All right. I want to show you what's been marked
22 as Defendant's Exhibit G. Ms. Wald, do you recognize this
23 e-mail dated Sunday, June 14, 2015?

24 A. I don't recall. It might have been mailed to me.

25 Q. If you look under forwarded message, do you see

K. WALD

1 where it says from Wald, Karen A.?

2 A. From teacher's schedule sent to Rosemary Mills.

3 Q. I'm sorry. If you look under -- do you see where
4 it says forwarded message?

5 A. Yes.

6 Q. Do you see where it says from Wald, Karen A.?

7 A. Yes.

8 Q. Is that your e-mail address?

9 A. Yes.

10 Q. And you said that the date of that e-mail you
11 sent was Sunday, June 14, 2015; is that correct?

12 A. Yes.

13 Q. Is the subject of the e-mail you sent is
14 placement center for adult education teacher's hiring hall;
15 is that correct?

16 A. Yes.

17 Q. Okay. And underneath in the body of that e-mail
18 it says schedule change form; is that correct?

19 A. Correct.

20 Q. And you typed your name under this schedule
21 change for; is that correct?

22 A. Correct.

23 Q. Do you see where it says full-time teacher's in
24 the body of the e-mail?

25 A. Correct.

K. WALD

1 Q. Do you see where it says I am a full-time teacher
2 and will change my entire schedule, I will remain a
3 full-time teacher and I will attend the hiring hall. And
4 you check the box; is that correct?

5 A. That is correct. And I explained to you that I
6 have prior knowledge about other teacher's leaving so I
7 signed it with the expectation that those other positions
8 would be available.

9 Q. Prior to signing this schedule change form, did
10 you speak to Ms. Mills about when those openings would be
11 available?

12 A. No. Because I based it on her comments from the
13 prior year. As I said, I never had conversation with
14 Ms. Mills other than in consultation or the -- if there was
15 an arbitration or something. But based on her actions the
16 prior year I thought I had planned well for this year.

17 Q. But you did follow up with Ms. Mills to see
18 specifically if the positions that you thought were going
19 to available were actually going to be available at the
20 hiring hall?

21 A. Why would I have a reason to doubt her word?

22 Q. When you say doubt her word, what are you
23 referring to?

24 A. Based on what she said the prior year, why would
25 I doubt that it's not the same this year.

K. WALD

1 Q. When you say what she said the prior year, what
2 conversation are you referring to?

3 A. The reason why the senior teacher's schedules
4 were not put on the placement list was because the
5 paperwork was not completed, okay. So this year the
6 teacher's who were retiring completed their paperwork ahead
7 of time. The jobs that they informed Ms. Mills that they
8 would not be returning and I knew that. I had copies of
9 their retirement papers.

10 Q. When you showed it to the hiring hall, were you
11 surprised to know that these positions were not available?

12 A. Very surprised.

13 Q. Did you say anything to Ms. Mills?

14 A. Yes, I did.

15 Q. What did you say?

16 A. I said, here are the retirement papers based on
17 the discussions from the prior year; why aren't these jobs
18 available.

19 Q. What did she say in response to you?

20 A. She said she wasn't putting them on the list.

21 Q. In the schedule change form it specifically
22 states in the body of that e-mail, by electing to change
23 your schedule, you will give up protection to your current
24 class, your current class schedule will be offered to other
25 employees at the placement center; is that correct?

K. WALD

1 A. Yes.

2 Q. Can you just explain to me what the hiring hall
3 is?

4 A. Teacher's who have changes in schedule, okay.
5 They need to replace those hours, okay. So that they can
6 have how many hours they worked. If for one reason a class
7 is closed and another one is open or they live in Rhode
8 Island and they don't want to work in Coney Island, they
9 would go to the hiring hall to look for a different
10 position.

11 Q. In light of that fact that you had an additional
12 six hours granted to you for 2015-2016 school year, would
13 you have had to go to the hiring hall or no?

14 A. I would have had to go because I had to add six
15 hours and I would have had to go because I'm chapter
16 leader.

17 Q. So as chapter leader you always have to change
18 your schedule?

19 A. No. As chapter leader I had to go to the hiring
20 hall.

21 Q. So you have to attend the hiring hall but you
22 don't have to attend for the purpose of changing your
23 schedule?

24 A. Correct.

25 Q. But you would have to go to the hiring hall to

K. WALD

1 change your schedule because of the additional six hours
2 that were added to your schedule?

3 A. Correct.

4 Q. So even if the positions that you thought were
5 going to be available were not available, had you been
6 informed that they were not going to be available, you
7 still would have to go to the hiring hall to change your
8 schedule, correct? Do you understand my question?

9 A. Go ahead and rephrase it.

10 Q. Sure. If you don't understand a question, just
11 please let me know. So you thought certain positions were
12 going to be available at the hiring hall and then you
13 testified that you later found out that they were not
14 available when you showed up at the hiring hall, right?
15 But because an additional six hours were added to your
16 schedule as a result of the arbitration, you would have had
17 to change your schedule regardless of if those positions
18 that you thought were going to be available were not
19 available?

20 MS. KAPITONOVA: Objection.

21 A. No.

22 MS. KAPITONOVA: I'm sorry, if you
23 understand that question.

24 A. No. I would not, for myself I might not have. I
25 could have kept this schedule and added more hours to see

K. WALD

1 if there were more hours to work at the present location.

2 Q. So you could have kept your schedule for the
3 2014-2015 school year and just added hours on to that
4 you're saying?

5 A. Yes.

6 Q. So why didn't you just do that at the hiring
7 hall?

8 A. Because since she didn't open this my schedule
9 was no longer available.

10 Q. Because you went to the hiring hall?

11 A. No. Because she didn't open the retired
12 teacher's positions then my schedule was taken by someone
13 else. Because it says here as you read, by electing to
14 change, will be offered to other employees.

15 Q. So what would the process have been for you to
16 change your schedule for the 2014-2015 school year and add
17 an additional six hours?

18 A. I would have had to keep this and just add the
19 six hours, which you see would have been available from the
20 schedule to almost anyone.

21 Q. How would you have gone about adding those six
22 hours?

23 A. I would have had to go to the hiring hall.

24 Q. By going to the hiring hall, do you automatically
25 give up your schedule from the past year?

K. WALD

1 A. No. You can add or subtract hours.

2 Q. So you don't have to give up your whole schedule
3 at a hiring hall necessarily?

4 A. No.

5 Q. Did anyone force you to give up your schedule for
6 the 2015-2016 school year?

7 A. What do you mean by force?

8 Q. Did anyone say you must change your schedule for
9 the 2015-2016 school year?

10 A. No. I told you. I could have kept that, right.
11 And that would have worked out that I would have worked how
12 many nights -- I had 24 hours -- I would have worked three
13 nights, okay. Instead of four nights. And had I kept my
14 schedule, it would have been three nights instead of four
15 nights. Given my prior knowledge I thought it would have
16 been a healthier choice to give it up and get something
17 that would have helped me preserve my health.

18 MR. REITER: Please mark this exhibit.

19 (Whereupon, schedule form was marked as
20 Defendant's Exhibit H for identification as of
21 this date by the Reporter.)

22 Q. Ms. Wald, I'm showing you what's been marked as
23 Defendant's Exhibit H. Do you recognize that document?

24 A. Yes.

25 Q. What is this document?

K. WALD

1 A. This is a schedule from 2015-2016.

2 Q. So would this be the schedule form that you
3 submitted at the hiring hall on Monday, June 29, 2015?

4 A. This was the schedule that I was given.

5 Q. After you had made your request to change your
6 schedule for the 2016 school year?

7 A. Right. There wasn't much for me to choose from.
8 This was the schedule.

9 Q. Okay. So this was the schedule that you decided
10 upon at the hiring hall?

11 A. This was the schedule that was available to meet
12 my needs.

13 Q. This was the schedule available to meet your
14 needs that was given to you at the hiring hall?

15 A. Yes. My teaching hour needs.

16 Q. So your schedule for the 2015-2016 school year
17 was effectively finalized at the hiring hall, correct?

18 A. When does that mean?

19 Q. That your schedule was decided on at the hiring
20 hall. This was the date that it was locked in?

21 A. Right. But, you know, things change.

22 Q. I'm sorry?

23 A. Things change.

24 Q. Right. I'm saying at the time when you signed to
25 accept this schedule for the 2015-2016 schedule that was

K. WALD

1 expected to be your schedule for the 2016 school year?

2 A. Yes.

3 Q. Okay. I want you to turn to paragraph 15 of

4 Exhibit A, which is your complaint in this action.

5 Paragraph 15 states that the DOE was aware that Ms. Wald

6 was unable to perform this assignment and she caught

7 pneumonia three times the prior school year due to the

8 schedule but still refused to accommodate her request for

9 an assignment with a full-time schedule, morning and

10 afternoon, which was closer to home or more compact in

11 time. Now how was the DOE aware that you were unable to

12 perform a schedule that you had just decided upon at the

13 hiring hall?

14 A. Well they were contacted by Mr. Brewton, okay.

15 At the time of the hiring hall I didn't know that I was

16 going to ask for an accommodation. But before the school

17 year started they were notified by Mr. Brewton.

18 Q. I'm saying at the time how would the DOE have

19 been aware that you were unable to perform the assignment

20 that you signed up for at the hiring hall?

21 A. Well this doesn't say at the time of the hiring

22 hall.

23 Q. So the DOE would not have been aware that you

24 were unable to perform your schedule?

25 A. At the time of the hiring hall.

K. WALD

1 Q. Correct.

2 A. Correct. I didn't know that either.

3 Q. When you agreed on the schedule at the hiring
4 hall, you didn't know that you were going to need an
5 accommodation; is that right?

6 A. That's correct.

7 Q. Paragraph 16 of your complaint you allege that
8 you were forced out on leave on December 9, 2015,
9 constructively terminated due to the DOE's failure to
10 provide you with reasonable accommodations. How were you
11 forced out on leave on December 9, 2015?

12 A. Are we talking about the word forced?

13 Q. I'm asking you how you were forced out.

14 A. I left because I couldn't get an accommodation
15 that worked for me and I didn't have any other option but
16 to leave. I couldn't take the travel time for four days
17 and the medical accommodation was not granted. So if your
18 unwilling to negotiate then what choice do I have?

19 Q. So who are you alleging led you to require?

20 A. The DOE was not giving me the medical
21 accommodation.

22 Q. Anyone in particular from the DOE?

23 A. Okay. So based on my experience as chapter
24 leader, okay. I know that Ms. Mills, okay, makes the final
25 decisions about everything.

K. WALD

1 Q. So you're alleging that it is Ms. Mills who was
2 the reason behind your retirement?

3 A. I'm presuming.

4 Q. Who were your supervisors at the Brooklyn Adult
5 Learning Center?

6 A. Kesha Harris.

7 Q. Did you have any problems with Kesha Harris?

8 A. No.

9 Q. Did you get along with Ms. Harris?

10 A. As well as anyone else got along with her.

11 Q. Did she ever state that you needed to take
12 medical leave?

13 A. I was the chapter leader. I represented all the
14 teacher's. Whenever there was an issue with anything, we
15 didn't go to the principals; we went to Ms. Mills.

16 Q. The question I'm asking is, did Ms. Harris ever
17 state to you that you needed to take medical leave or
18 retire?

19 A. I never discussed it with her.

20 Q. You also worked at the Alternative Education
21 Complex in Manhattan on West 35 Street. Who was your
22 supervisor there?

23 A. I can't remember her name.

24 Q. Did she ever state to you that you needed to take
25 medical leave?

K. WALD

1 A. No. She didn't. But I'm sure all the
2 discussions took place with Ms. Mills, okay. The only
3 thing that you would go to a regional principal was for an
4 observation. Any other issue was handled by Ms. Mills.

5 Q. Did you ever insist that you take medical leave?

6 A. No.

7 Q. So it was your choice to take medical leave on
8 December --

9 A. I didn't take medical leave.

10 Q. I'm sorry. Excuse me. It was your choice to
11 take terminal leave on December 9, 2015?

12 A. Correct. Given the alternative, what choice did
13 I have?

14 Q. Your saying the alternative of working the
15 schedule that you were assigned to?

16 A. Correct.

17 MR. REITER: Mark this exhibit, please.

18 (Whereupon, a document was marked as
19 Defendant's Exhibit I for identification as of
20 this date by the Reporter.)

21 Q. All right. Ms. Wald, I'm handing you what's been
22 marked Exhibit I. Do you recognize this document?

23 A. Yes.

24 Q. Is that your signature under the signature of the
25 applicant?

K. WALD

1 A. Yes.

2 Q. The date is November 9, 2015?

3 A. Right.

4 Q. This document is your application for retirement
5 leave of absence terminal leave?

6 A. Correct.

7 Q. So you submitted the application on November 9,
8 2015; is that right?

9 A. Yes.

10 Q. So this was the application for you to retire
11 from the Department of Education?

12 A. Correct.

13 Q. Why did you decide to retire from the Department
14 of Education?

15 A. Because I was terrified of working four days from
16 7:30 to 9:30 and then on Friday for those hours. I didn't
17 want to get sick again.

18 Q. Did anyone attempt to deny you terminal leave
19 when you applied for it in your application for retirement
20 leave?

21 A. No one can deny you. It's not a Board of
22 Education policy where they can deny you terminal leave.

23 Q. All right. Now in your complaint you allege that
24 you're aware of others who were provided requested change
25 of their schedules despite only needing these changes for

K. WALD

1 convenience, not serious medical complications. Who are
2 these individuals that you are referring to?

3 A. Irene Rosa was the chapter leader and resigned
4 soon after she became chapter leader. She went back to her
5 original schedule.

6 Q. So she became the chapter leader on June 30,
7 2015?

8 A. July 1.

9 Q. July 1, 2015?

10 A. '16. No, no. '15 you're right.

11 Q. And you're saying that she resigned from the
12 chapter leader position?

13 A. Yes.

14 Q. When did she resign?

15 A. I don't know the exact date.

16 Q. During the 2015-2016 school year?

17 A. Yes. She served four or six months, a half a
18 year.

19 Q. Do you know why she resigned from that position?

20 A. As far as I know, she was not happy.

21 Q. Okay. So after she resigned from that position
22 what happened to her schedule to the best of your
23 knowledge?

24 A. She went back to her original schedule.

25 Q. What was her original schedule?

K. WALD

1 A. She taught ESL in Mid-Manhattan.

2 Q. So she was teaching in Mid-Manhattan but just had
3 the six hour union duties; is that correct?

4 A. Yes.

5 Q. And then after she resigned from the chapter
6 leader position are you testifying that she worked 30 hours
7 at the location in Mid-Manhattan location?

8 A. As far as I know. I'm not 100% sure but I'm
9 pretty sure.

10 Q. What's the basis for your belief that she went
11 back to her original schedule?

12 A. The teacher's told me.

13 Q. What class to the best of your knowledge did she
14 take over at the Mid-Manhattan school?

15 A. I don't know that. The teacher's told me that
16 she went back to her schedule.

17 Q. So she picked up to the best of your knowledge
18 the six hours that she had for union duties?

19 A. Yes.

20 Q. What teacher's at the Mid-Manhattan location told
21 you that she added six hours back to her schedule?

22 A. I can't remember the names. But I was a very
23 active, involved chapter leader so the teacher's called me
24 all the time. I knew a lot. I worked very hard. I was
25 well informed. So the teacher's call me all the time with

K. WALD

1 issues and problems and circumstances.

2 Q. And to the best of your knowledge when was her
3 schedule reverted back to the schedule she had in the
4 2014-2015 school year?

5 A. During the first year of her being chapter
6 leader.

7 Q. Are you aware of any other individuals who were
8 provided schedule changes that they requested?

9 A. Lisa Miller. I think who had worked in the Bronx
10 and she worked in Brooklyn. I think her schedule was
11 changed.

12 Q. Why to the best of your knowledge was her
13 schedule changed?

14 A. I was told that she had a son and getting home
15 very late, at night, coming from Brooklyn. She got home
16 really really late.

17 Q. Did you know Lisa Miller personally?

18 A. Yes. I did know her.

19 Q. Did you talk to her about her schedule change?

20 A. I can't remember if I did or not.

21 Q. Do you know Irene Rosa?

22 A. Yes.

23 Q. Did you talk to her about her schedule change
24 being reverted back to the previous schedule in the 2014-
25 2015 school year?

K. WALD

1 A. No. I didn't. But the teacher's told me.

2 Q. Right. But I'm saying just specifically your
3 conversation with Ms. Rosa?

4 A. No.

5 Q. You didn't speak to Ms. Rosa?

6 A. No.

7 Q. Was what Lisa Miller's job title when she
8 requested the schedule change?

9 A. She was an ESL teacher.

10 Q. An ESL teacher for Adult Education?

11 A. Yes.

12 Q. And what was Irene Rosa's position when she
13 requested the schedule change?

14 A. She was an ESL teacher.

15 Q. Both Lisa Miller and Irene Rosa were ESL
16 teacher's for the Adult Education Program?

17 A. Yes.

18 Q. Do you know of any other individuals who were
19 requesting schedule changes during the 2015-2015 school
20 year?

21 A. I know Jeff Schwartz. Not during the year, he
22 left at the end of the summer. He went to a different
23 program.

24 Q. Outside of Adult Education?

25 A. Yes. And then there was a problem getting him

K. WALD

1 released. And then there was Gina, I think, and I think
2 she had an accident, and I think her program was changed.
3 I think some teacher's from the Queens school told me this.
4 I didn't have a conversation with Gina at that time.

5 Q. So let's go back. So Gina you said requested a
6 schedule change because she had an accident?

7 A. I think so. That's what the teacher's told me.

8 Q. Do you know if Gina -- what's her last name? I'm
9 sorry.

10 A. Foschinti (phonetic) or something like that.

11 Q. Do you know if Gina requested a schedule change?

12 A. If she got a schedule change I'm sure it was
13 because she requested it. Because I remember she had very
14 difficult program because I worked with all the teacher's
15 making the programs before I ended my tenure as the chapter
16 leader.

17 Q. And you said Jeff Schwartz?

18 A. He left the program.

19 Q. So he didn't request a schedule change?

20 A. He had a problem getting released but he finally
21 got released.

22 Q. Okay. But that's not a request for a schedule
23 change, it was a request to leave the program itself?

24 A. For a different schedule at another place.

25 Q. Within Adult Education?

K. WALD

1 A. No.

2 Q. Do you know of any other individuals who made
3 medical accommodation requests during the 2015-2016?

4 A. No.

5 Q. Are there any other individuals that you're aware
6 of who made schedule request changes that were granted
7 during the 2015-2016 school year other than the ones that
8 we have just discussed?

9 A. I don't know. But that doesn't mean it wasn't
10 done.

11 Q. To the best of your knowledge?

12 A. Right.

13 MR. REITER: Mark this exhibit, please.

14 (Whereupon, spreadsheet e-mail was marked as
15 Defendant's Exhibit J for identification as of
16 this date by the Reporter.)

17 Q. I'm showing you what has been marked as
18 Defendant's Exhibit J. Do you recognize this document?

19 A. No. But it has my name on it but I can't recall
20 seeing it.

21 Q. It's written by Patty Crispino; is that correct?
22 Take a second to read it and then let me know when you have
23 read this.

24 A. Okay.

25 Q. All right. Now in this e-mail states that there

K. WALD

1 is a spreadsheet that shows classes and Ms. Wald's license
2 that existed in 5/4/14 and what was created for the start
3 of 2015 school year. Do you have a copy of this
4 spreadsheet that's referred to in the e-mail?

5 A. No.

6 Q. Do you know of the classes that are referred to
7 in this e-mail?

8 A. No. This is what she was probably given during
9 the Summer of 2015. Why do I say that?

10 Q. Yes?

11 A. Because it says these are jobs that were added
12 after the placement center.

13 Q. Right. Were you ever informed of what those jobs
14 were?

15 A. I didn't have access. Maybe she said she sent it
16 to me and I didn't see it. I don't know. I can't recall.
17 This dates that there was a possibility of accommodation
18 for me after the placement center. That's the gist of this
19 letter.

20 Q. Right. But you requested an accommodation in
21 August 2015?

22 A. This letter is December '15, right.

23 Q. Yes.

24 A. And the spreadsheet comes out in September,
25 October of 2015.

K. WALD

1 Q. The spreadsheet that's referred to here?

2 A. Yes. As far as I know they had to come out with
3 the teacher's and who got positions where they were and
4 what was available and when the jobs opened. So the
5 spreadsheet was after I was chapter leader, which I was no
6 longer privy to. She might have sent it to me. She sent
7 it to Allen Lichte and Crespo (phonetic) they handle level
8 two grievances.

9 Q. I'm just asking do you have a copy of this
10 spreadsheet that's referred to in this e-mail, correct?

11 A. Maybe. She sent it to DOE and I don't know if I
12 still have access to that e-mail. Here it says the
13 positions are indicated in the listing in the PDF
14 directory, positions are retired or transferred after the
15 placement center.

16 Q. Do you have any idea of these position that are
17 referred to in this e-mail were available at the time you
18 made your accommodation request?

19 A. I don't know.

20 Q. All right.

21 A. I also know that there are teacher's that retire
22 throughout the year. They don't always retire at the end
23 of the year. In fact when I retired, the teacher right
24 next to me, three teacher's retired within two months of my
25 leaving.

K. WALD

1 Q. So they required after you had retired?

2 A. Soon after. Very soon after. So during the year
3 2015-2016 I don't know who was -- I know teacher's right
4 where I worked but I don't know in other schools if they
5 were retiring as well.

6 Q. Now in your complaint you allege that the
7 Department of Education discriminated against you in
8 violations of the Americans with Disabilities Act. What is
9 the basis for your belief that the Department of Education
10 discriminated against you on the basis of your disability?

11 A. I asked for an accommodation, okay, for health
12 reasons and I have not been given one.

13 Q. Okay.

14 A. And I believe that since the final decision ended
15 with Ms. Mills, okay, that it would be very difficult.

16 Q. So are you alleging that they didn't give you an
17 accommodation because of your leukemia?

18 A. It could have been a combination of because of my
19 leukemia, yeah, I guess. Why wouldn't they give me an
20 accommodation?

21 Q. You said a combination of leukemia --

22 A. They didn't give it to me because of my leukemia.

23 Q. Now you also allege that the Department of
24 Education failed to provide you with a reasonable
25 accommodation, which caused you to prematurely retire.

K. WALD

1 What accommodation did the Department of Education fail to
2 provide you?

3 A. They reduced my working hours. They wanted to
4 reduce my working hours.

5 Q. So what accommodation did they fail to provide
6 you?

7 A. To give me a schedule where I wouldn't have to
8 take a reduction in pay.

9 Q. Now your requirement was effective February 1,
10 2016, correct?

11 A. Correct.

12 Q. Where were you planning on retiring initially?

13 A. Probably two or three years later.

14 Q. Now you allege that if the Department of
15 Education had accommodated you, you would still be working.
16 Could you have taken the reduced schedule and continued
17 working?

18 A. It would have had a dramatic impact on my
19 pension.

20 Q. Okay. So are you saying that you didn't want to
21 take the reduction in your schedule because it would impact
22 your pension?

23 A. Correct.

24 Q. How would it impact your pension?

25 A. How would it have impacted?

K. WALD

1 Q. Yes.

2 A. It's six hours. It's 1/6 of my salary.

3 Q. So it would have affected the long-term pension
4 benefits that you received?

5 A. And it was a decision that I had to make in the
6 matter. I had an illness and who knows what can happen
7 with my illness.

8 Q. If the Department of Education had provided you
9 with the accommodation that you are alleging was denied,
10 would you have continued working for the Department of
11 Education?

12 A. As long as I was feeling well, absolutely.

13 Q. Were you feeling well at the time that you
14 retired?

15 A. I was tired because of the schedule. But if they
16 had accommodated me with the schedule, I'm sure, I believe
17 that I could have managed.

18 Q. So it was really the night hours that were the
19 primary issue for you?

20 A. No. It was the 7:30 to 9:30 all day for four
21 days.

22 Q. Okay.

23 A. It wasn't the night. I could have worked at
24 night, okay. It was just that -- you're not sick. I'm
25 sure that you work 7:30 to 9:30 four days a week, right.

K. WALD

1 You're much younger, right. Eventually when you get older,
2 you would be tired, okay. So anyone would be tired but I
3 have a condition that could tolerate the stress less and
4 more venerable to infections and things like that. So it
5 was not a wise decision for me to keep that up given the
6 respiratory infections I had the year before.

7 Q. So what is a schedule that would have allowed you
8 to receive the accommodation that you needed?

9 A. I described something before. If I worked, you
10 know, two nights then I would have space for two
11 afternoons, right. Two days, three, four and I could go to
12 sleep at 4:00 and then wake up at 7:30 the next day. In
13 the case I couldn't go to sleep at all. I couldn't eat
14 well because if I only had an hour and I had a drop
15 something off and run out, I was running. I wasn't eating
16 well; I wasn't resting; I wasn't regaining my strength. So
17 that wears you out.

18 Q. So it was two of those long days instead for four
19 of those long days, you're testifying that would have been
20 more able to perform your job?

21 A. Say it again?

22 Q. If it was two of those long days that you would
23 do, 7:30 to 9:30, if it was two of those days as opposed to
24 four days, are you alleging that you would have been able
25 to perform your job with the Department of Education?

K. WALD

1 A. You mean if I worked the 36 hours for two days
2 and then rested three days?

3 Q. Yes.

4 A. Yes. I mean that wasn't a choice. But it's just
5 so I have time to rest in between. The schedule that I
6 had, I had time to rest. I had no time to eat well for
7 four days and I had no time to rest.

8 Q. You also allege that the Department of Education
9 retaliated against you because you made a request for a
10 reasonable accommodation. How did the Department of
11 Education retaliate against you?

12 A. Where is that?

13 Q. That would be on page 6 of 8 and paragraph 26.

14 A. Okay. How did they retaliate against me? I'm
15 sure that they had less incentive to grant me this
16 accommodation then they might have had with any other
17 teacher because I was an active chapter leader.

18 Q. Are you saying they retaliated against you by not
19 granting you accommodation because of the fact that you
20 were previously a chapter leader?

21 A. I know that Ms. Mills did not want me to have
22 those hours.

23 Q. Right. But I'm saying is there a specific action
24 that you took that you're alleging the Department of
25 Education retaliated against you for taking?

K. WALD

1 A. I believe that she didn't want to pay me those
2 six hours, that was her problem for all of the arbitrations
3 and for all of the teacher's and that she was very happy to
4 take away those six hours.

5 Q. You're stating that the Department of Education
6 retaliated against you for the previous grievance that you
7 filed with respect to the six hours --

8 A. There was a reason for them not to accommodate
9 me.

10 Q. So you're alleging that this is a retaliation for
11 that particular grievance?

12 A. Yes. I believe that this was -- well that she
13 didn't want to accommodate me. I don't know why but she
14 didn't want to accommodate me for health and for past
15 activities.

16 Q. When you say past activities, what are you
17 referring to?

18 A. Union activities.

19 Q. Any union activities in particular?

20 A. You can go down the list.

21 Q. What is the most recent union activity that you
22 would say is retaliated against you?

23 A. She didn't want to accommodate me, okay. She
24 never spoke to me, okay. I believe that, I don't know,
25 given that someone is sick and right, you can handle that.

K. WALD

1 The other chapter leader who left, she has nothing wrong;
2 they gave her back her job. She didn't give me back my job
3 that I could work with. She worked with the other chapter
4 leader to accommodate her. I don't know why she didn't
5 work with me to accommodate me.

6 Q. Have you ever received unemployment insurance
7 benefits?

8 A. Not in the last 20 years.

9 Q. When did you receive unemployment insurance
10 benefits?

11 A. I don't remember. Not since 2001.

12 Q. What was the reason that you received those
13 benefits?

14 A. I guess I was unemployed at that time.

15 Q. Do you know how much money you received?

16 A. I don't recall. I couldn't tell you the years or
17 anything.

18 Q. Have you ever received workers' compensation?

19 A. No.

20 Q. Have you ever received welfare or public
21 assistance or any benefits of any kind?

22 A. No.

23 Q. So you previously testified that you're not
24 currently working, correct?

25 A. That's correct. Or let's say I'm not employed.

K. WALD

1 Q. Are you claiming that you suffered damages as a
2 result of Defendant's alleged discrimination and
3 retaliation against you?

4 A. Yes.

5 Q. What damages do you claim you have suffered as a
6 result of the defendant's actions?

7 A. I wasn't planning on retiring so financial
8 damages.

9 Q. So how much are you requesting in damages in this
10 case?

11 A. Well I guess if I worked for two to three more
12 years from -- let's start at 2015. I work for a half the
13 year, right, 2015, 2016, 2017. So at least two more years'
14 salary.

15 Q. What was your salary at the time you retired?

16 A. \$126,000.

17 Q. So you're claiming that you would have earned
18 \$126,000 in salary over the next --

19 A. I would have earned more than that because the
20 union -- I'm not quite sure, they had changes based on a
21 new salary. I think the following year it would have gone
22 up to 12.5% for that and then another year I don't know,
23 what, so 12.5% is 1/8 of 12 --

24 Q. It's okay.

25 A. 12 divided by 8 is one and a half, right. So

K. WALD

1 \$15,000 more.

2 Q. Are you claiming any other damages other than the
3 salary that you would have earned over the next three
4 years?

5 A. I wasn't happy not to have the job.

6 Q. But you decided to retire, correct?

7 A. As I said I couldn't sustain that schedule.

8 Q. Okay.

9 A. And I was willing to because I was taking
10 chemotherapy. The drugs are very expensive. Why would I
11 do something so stupid?

12 Q. Are you claiming emotional distress damages in
13 this case?

14 A. Not excessive but I was aggravated that they
15 didn't give me my job. I was upset about that.

16 Q. What mental anguish or emotional distress are you
17 claiming as a result of the actions of the Department of
18 Education?

19 A. I didn't have mental anguish. I was upset, okay.
20 I wasn't distraught.

21 Q. So you were upset?

22 A. I wasn't distraught. I could function.

23 Q. Did you ever seek any counseling for any
24 emotional distress damages?

25 A. No.

K. WALD

1 Q. Are you taking any medication in regard to any
2 emotional distress that you may have suffered?

3 A. No.

4 Q. Did you talk to anyone about any emotional
5 distress that you have suffered?

6 A. I was angry. I might have told someone that I
7 was angry that they didn't accommodate me, that I had to
8 leave.

9 Q. Prior to your termination with the Department of
10 Education what other source of stress did you have in your
11 life?

12 A. Say it again?

13 Q. Prior to your retirement from the Department of
14 the Education in 2015, what other sources of stress did you
15 have in your life?

16 A. Well I worked hard in a difficult program, right.
17 And I had to achieve it. So the job was stressful but it
18 has its benefits and everyone has stress all the time. I
19 had to clean my house every week. No one looks forward to
20 that.

21 Q. So besides what you've told me, have you
22 experienced any other emotional distress damages?

23 A. I wish that I would have been there to help some
24 of my students get their high school diplomas. They
25 contacted me outside after I retired to help them. I still

K. WALD

1 have ongoing relationships that could have been more
2 effective had I been there. And they can state that. And
3 that is a regret.

4 Q. In your complaint you also allege that you're
5 seeking a rescission of your resignation; is that correct?

6 A. Yes.

7 Q. So you no longer want to be retired from the
8 Department of Education?

9 A. I could go back. I don't know. I'll see what
10 happens. I didn't know when I wrote this how long this
11 would take to be resolved.

12 Q. But I'm saying at the present moment, you wish to
13 rescind your resignation from the Department of Education?

14 A. Yes.

15 Q. What is the basis of your request to rescind your
16 resignation or your retirement from the Department of
17 Education?

18 A. Let's put it this way. If I wanted to go back to
19 work, I wanted to know the possibility that I could. I
20 don't know as a full-time teacher, what. But I'd like to
21 know that I have the possibility to go back to work should
22 I wish.

23 Q. If you were able to rescind your resignation, how
24 would that affect your pension benefits?

25 A. If I was able to rescind it?

K. WALD

1 Q. Yes.

2 A. Well, maybe not rescind but have the option to
3 work. I can work even though I'm retired.

4 Q. Has the Department of Education prevented you
5 from working for them in any way?

6 A. I can't work in this program. She will never
7 hire me.

8 Q. But have you applied to work in this program
9 since you retired?

10 A. No.

11 Q. Have you applied to work in any other program for
12 the Department of Education since you retired?

13 A. No. Because my expertise is in this program but
14 she would never hire me in this program.

15 Q. But you've never actually been denied a position
16 with the Department of Education?

17 A. Based on my prior history with her and based on
18 the chapter's prior history with her and based on this
19 lawsuit and based on her personality, I would never get the
20 job.

21 Q. My question is, you have not applied for a
22 position with the Adult Education Program since you
23 retired?

24 A. I don't jump into -- I'm trying think of a good
25 example. Based on the information that I gave you, I did

K. WALD

1 not apply.

2 Q. The question is yes or no. Have you applied with
3 the office of Adult Education with the Department of
4 Education since you retired?

5 A. That's correct.

6 Q. Is it your contention that you are physically
7 able to work right now?

8 A. As I discussed in the beginning, yes, there are
9 certain positions, yes, I can work. Depending on the
10 requirements of the job, etc.

11 Q. What has changed since you retired that now that
12 you now feel you are able to work?

13 A. I'm taking chemotherapy. The drugs cost a
14 fortune.

15 Q. So you feel in better shape now than you did at
16 the time you retired?

17 A. Thank god.

18 Q. Have you ever declared bankruptcy?

19 A. No.

20 Q. Have you ever been convicted of a crime?

21 A. No.

22 Q. Have you ever plead guilty to a crime?

23 A. No.

24 Q. Have you ever been arrested?

25 A. No.

K. WALD

1 Q. Have you ever at any time been accused of
2 discriminating against another person?

3 A. No.

4 Q. Have you ever at any time been accused of
5 retaliating against another person?

6 A. No.

7 Q. Other than in this lawsuit, have you ever accused
8 anyone of retaliating against you?

9 A. What does that mean?

10 Q. Have you ever filed any lawsuit alleging that
11 someone has retaliated against you?

12 A. Based on what?

13 Q. Anything?

14 A. I don't recall anything, no.

15 Q. Have you ever filed another lawsuit prior to this
16 lawsuit?

17 A. Yes.

18 Q. What lawsuit was that?

19 A. I can't remember. I'm sure I filed a lawsuit. I
20 filed a lawsuit in small claims court. I can't remember
21 but I know I filed lawsuits.

22 Q. When was that lawsuit filed?

23 A. 100 years ago. My landlord didn't have a stove.
24 He had to give me a stove.

25 Q. So you filed a lawsuit in small claims court

K. WALD

1 about a stove?

2 A. Yes.

3 Q. Have you filed any other lawsuits?

4 A. I'm sure I have.

5 Q. Have you ever filed a lawsuit in State court?

6 A. Probably. But I haven't filed a lawsuit in 20
7 years.

8 Q. Do you recall what the lawsuit you filed was
9 about in State court?

10 A. No.

11 Q. Was it against Department of Education?

12 A. No.

13 Q. Have you ever filed a lawsuit other than this
14 lawsuit that we're for today against the Department of
15 Education?

16 A. No.

17 Q. Have you ever filed another lawsuit alleging that
18 someone discriminated against you in any court of law?

19 A. No. As far as I can remember.

20 Q. Now aside from this lawsuit, do you believe that
21 you've ever been discriminated against in your entire life?

22 A. Sure. Me too, right.

23 Q. Are you alleging that the Department of Education
24 has ever discriminated against you before?

25 A. I filed a lot of grievances, right. That went to

K. WALD

1 arbitration. Does that constitute discrimination?

2 Q. Did you ever allege in your grievances that the
3 Department of Education discriminated against you?

4 A. Yes.

5 Q. When?

6 A. For the union activities.

7 Q. You allege that you were retaliated against for
8 union activities. When did you file that grievance?

9 A. That was a 2007 grievance for the extra hours.

10 Q. Can you explain what the nature of that grievance
11 was?

12 A. There were, as far as I remember, several
13 teacher's, okay. There was a concern about the way the
14 contract was written about teacher's: How to use your work
15 schedule 30 but the contract said that they could work
16 additional hours and that if they worked those additional
17 hours, they would be paid pro rata not per session. Do you
18 understand the difference?

19 Q. Can you explain the difference?

20 A. Pro rata is whatever your hourly wages is at this
21 time; if you're a full-time teacher, you would get back the
22 additional hours. Per session is a \$42, \$43 fee. So there
23 are many many teacher's that filed -- there were two --
24 there were actually three grievances, and the second
25 grievance I participated in. And lots of teacher's -- I

K. WALD

1 think there are 26 teacher's at the time, and the teacher's
2 union -- the teacher's won that. So a lot of the teacher's
3 that had worked those additional hours received pro rata
4 versus per-session pay. And that took about three years to
5 resolve. So then the following year when all of teacher's
6 got their new schedule, worked the additional hours and got
7 the pro-rata pay, my schedule was changed such that I
8 couldn't have the additional hours anymore. I was the only
9 one out of the original 26 teacher's whose schedule was
10 changed, arranged, so that I couldn't have those hours. No
11 one else's. And that's the one that was resolved in April
12 of 2015. They said that I was entitled to them, that there
13 was harassment and it set a precedent that all of the other
14 teachers who added additional hours to their work schedule
15 were entitled to the pro rata pay.

16 Q. Aside from that grievance, did you ever allege
17 any grievance that the Department of Education retaliated
18 against you?

19 A. I don't recall but this one was a big one.

20 Q. Did you ever fill any grievances alleging that
21 the Department of Education had discriminated against you
22 in any way?

23 A. This went to arbitration. I don't know if it was
24 dissemination. The OACE didn't give me 30 hours. They
25 wouldn't give me a full-time program, so I went to work one

K. WALD

1 year in the day school. Then it went to arbitration and
2 they had to give me a 30 hour program after that.

3 Q. When was that?

4 A. 2006, 2007. I don't know.

5 Q. Have you ever testified either in court or at a
6 deposition such as the one that you're here for today?

7 A. Not that I recall.

8 Q. To the best of your knowledge this is the first
9 deposition that you've ever appeared for?

10 A. Correct. Arbitration is not a deposition?

11 Q. No. But you've appeared for arbitrations before?
12 What arbitrations have you appeared for?

13 A. As I said, I was the chapter leader so several.

14 Q. Specifically which arbitration?

15 A. Well I named the two. One is pro rata, the pro
16 rata was twice. The one was with my full-time job. There
17 was one for religious observance. There were many
18 arbitrations, okay. Many many cases as chapter leader. An
19 exceedingly number of cases at OACE, not all started by me
20 but as the chapter leader, I was the person there.

21 Q. Were you a witness at the arbitrations as the
22 chapter leader?

23 A. I don't know what you mean by that. I don't know
24 if I was a witness. I have testified to certain things.

25 Q. So you testified as a chapter leader even though

K. WALD

1 you were not the one --

2 A. Might have been applicable to my case even though
3 I wasn't participating in the case.

4 Q. So even though you didn't bring the case, you
5 were still testifying at the case?

6 A. Not often but at times, yes.

7 Q. You said you were an Adult Education Teacher from
8 2006 up until you retired?

9 A. Well I started 2001 and then I took off a year
10 and went to a different program and then I came back.

11 Q. What year, you said --

12 A. One is in 2015.

13 Q. What program was that again?

14 A. It was a detention center. I was the master
15 teacher in a suspension center.

16 Q. What is a suspension center?

17 A. The DOE would take all these unruly first through
18 sixth graders and put them in a suspension center and then
19 they try to work with them there, get them out of the
20 classroom.

21 Q. So you worked there for one year and that was the
22 gap. Otherwise you were at the Adult Education Program
23 from 2001 up until your retirement?

24 A. Yes.

25 Q. Did you work for the Department of Education

K. WALD

1 through the duration of the 1990s as well?

2 A. No.

3 Q. Where did you work?

4 A. I worked in business. I went to business school.

5 Q. So you came back to the Department of Education
6 in 2001?

7 A. Correct.

8 Q. How many years in total have you worked for the
9 Department of Education?

10 A. 25 years.

11 Q. So you worked from 2001 until your retirement and
12 what years did you work for Department of Education other
13 than the years of 2001 to 2016?

14 A. I worked there in the early 70s, then I worked
15 there I think -- I don't know how many, one or two years.
16 I don't remember. In the 80s, then the early 90s and then
17 the late 90s. That accumulated to 25 years.

18 MR. REITER: Can we take a brief break?

19 MS. KAPITONOVA: Sure.

20 Q. Ms. Wald, did you have notes or any recordings of
21 anything that we talked about today?

22 A. Only that e-mail that you said you didn't see.

23 Q. That's pretty much it. We're going to keep the
24 deposition open if there are any documents that have not
25 been turned over, that have not been produced that you were

K. WALD

1 not aware of, if we could ask questions about those
2 particular documents. We will keep this deposition open.
3 Otherwise after this transcript is prepared, I'll send it
4 to you through counsel. I'm going to ask that you review
5 the transcript and if there are any errors, you have the
6 opportunity to correct those errors at that time. Do you
7 understand?

8 THE WITNESS: Yes.

9 MS. KAPITONOVA: Yes.

10 Q. Do you have any questions for me?

11 A. As far as what?

12 Q. Are there any questions that you did not
13 understand here today?

14 A. I don't think so.

15 EXAMINATION BY

16 MS. KAPITONOVA:

17 Q. Ms. Wald, you testified that Ms. Mills gave a
18 teacher the counseling job over you even though you were a
19 tenure teacher, correct?

20 A. That was in 2015-2016 semester.

21 Q. Do you believe that the DOE retaliated against
22 you by not giving you a better schedule because of
23 reasonable accommodations disability request?

24 A. Yes.

25 Q. Is it your testimony today that have you received

K. WALD

1 the reasonable accommodation you would not have retired
2 early, correct?

3 A. Absolutely correct.

4 MS. KAPITONOVA: That will be all. Thank you.

5 (Whereupon, at 1:35 P.M., the Examination of
6 this Witness was concluded.)

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K. WALD

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I hereby certify that having been first duly sworn to testify to the truth, I gave the above testimony.

I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by me at the time and place specified hereinbefore.

KAREN A. WALD

Subscribed and sworn to before me
this ____ day of _____, 20__.

NOTARY PUBLIC

K. WALD

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E X H I B I T S

DEFENDANT EXHIBITS:

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(Exhibits retained by Counsel.)

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K. WALD

1 INFORMATION AND/OR DOCUMENTS REQUESTED

2 INFORMATION AND/OR DOCUMENTS PAGE

3 Production of e-mails 12

4 Production of e-mails 13

5 Production of documents 40

6

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8

9 QUESTIONS MARKED FOR RULINGS

10 PAGE LINE QUESTION

11 (None)

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K. WALD

C E R T I F I C A T E

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STATE OF NEW YORK)
 : SS.:
COUNTY OF SUFFOLK)

I, DANIELLE KAASTRA, a Notary Public for and
within the State of New York, do hereby certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and that such
examination is a true record of the testimony given by that
witness.

I further certify that I am not related to any
of the parties to this action by blood or by marriage and
that I am in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto set my hand
this 26th day of February 2018.



DANIELLE KAASTRA